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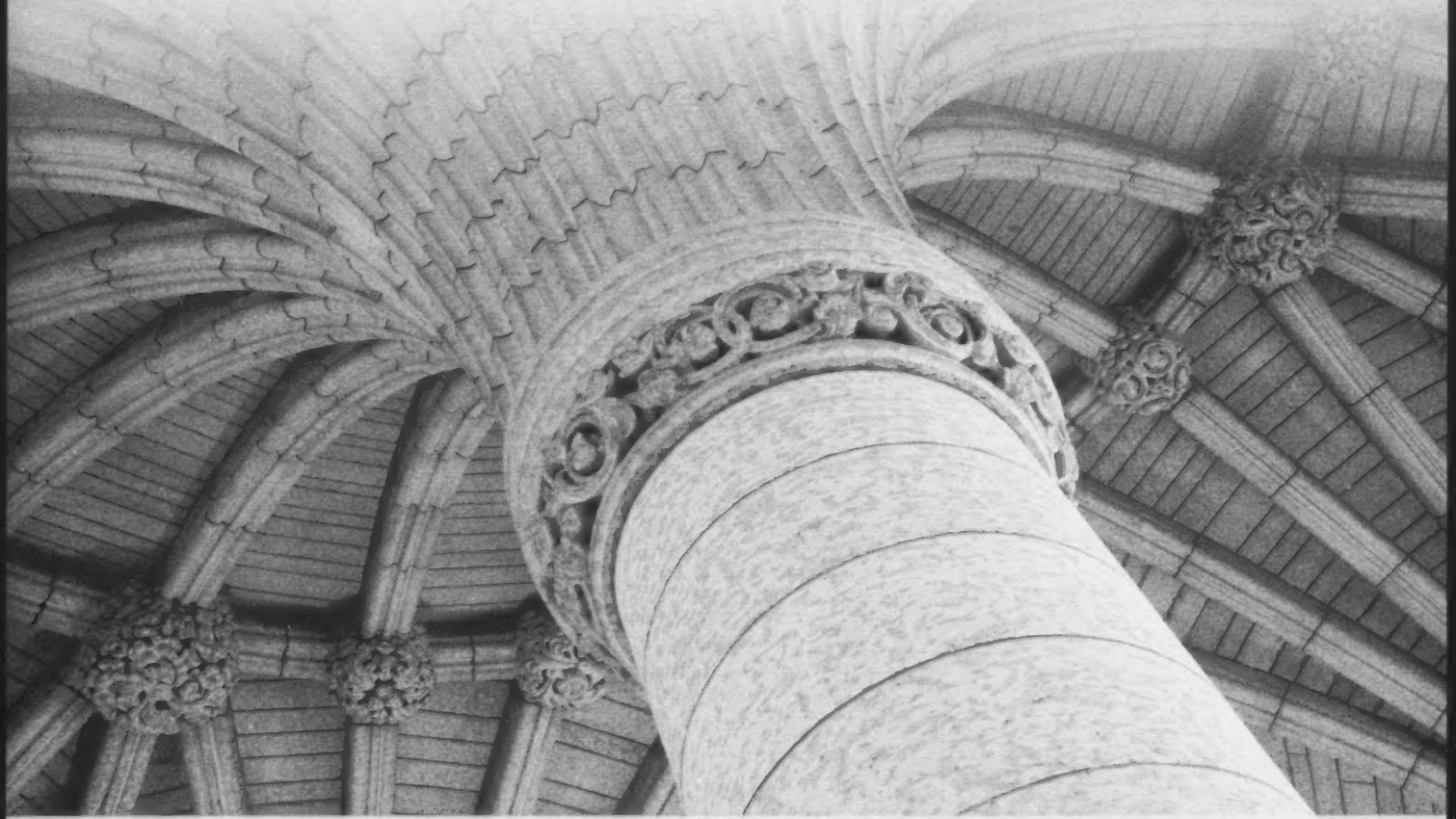
HEALTHY OCEANS, VIBRANT COASTAL COMMUNITIES: STRENGTHENING THE *OCEANS ACT* MARINE PROTECTED AREAS' ESTABLISHMENT PROCESS

Report of the Standing Committee on Fisheries and Oceans

Bernadette Jordan, Chair



JUNE 2018
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NOTICE TO READER

Reports from committee presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

To assist the reader:
A glossary of terms used in this report is available on page 63.

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has the honour to present its

FOURTEENTH REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied The *Oceans Act*'s Marine Protected Areas and has agreed to report the following:

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LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That, when identifying new areas of interest for marine protected areas, the Government of Canada evaluate net economic and social values and responsibilities, including cost of patrol and enforcement in Canada, particularly for remote marine areas. 21

Recommendation 2

That areas of interest and marine protected areas not be considered in isolation from sustainable fishery management practices. 25

Recommendation 3

That the Government of Canada acknowledge any negative impacts on people who directly depend on the resources of a marine protected area and the Minister use his or her discretionary powers to consider providing offsetting measures in consultation with the fishing industry where loss or harm is proven. 27

Recommendation 4

That the Minister of Fisheries, Oceans and the Canadian Coast Guard table an annual report to Parliament that includes the following:

- **a list of *Oceans Act* marine protected areas designated during that year;**
- **information on whether or not each established marine protected area is meeting its conservation objectives; and**
- **measures required if conservation objectives were not met. 33**

Recommendation 5

That Fisheries and Oceans Canada include a process to regularly review boundaries of existing and new marine protected areas for efficiency and relevance to optimize the protected area's performance in achieving its objectives and support the needs of local people who depend on the resources of the marine protected area. 35

Recommendation 6

That Fisheries and Oceans Canada consider establishing a timeline to designate *Oceans Act* marine protected areas that takes into consideration other environmental impact assessment processes. 38

Recommendation 7

That Fisheries and Oceans Canada undertake and prioritize work to clarify what individual marine protected areas are and are not, and ensure that the specific conservation goals of each marine protected area are clearly known to the local community. 40

Recommendation 8

That Fisheries and Oceans Canada publicize on its website, for each *Oceans Act* marine protected area process, the time frame, the decisions made at each step, the science and other considerations that went into decision making. 41

Recommendation 9

That Fisheries and Oceans Canada, as part of the *Oceans Act* marine protected areas establishment process, consider instituting mediation and conflict resolution mechanisms conducive to consensus-building. 42

Recommendation 10

That, in addition to science-based decision-making, Fisheries and Oceans Canada take into consideration the strong importance of having community and stakeholder support throughout the process of establishing a marine protected area. 44

Recommendation 11

That consultations leading to the creation of a marine protected area be as inclusive as possible for community stakeholders, with efforts made to schedule consultations at times when the maximum number of community members and Indigenous communities can participate, backstopped by an initiative to proactively reach out to those who haven't participated in scheduled consultation events. These consultations should be a part of an ongoing dialog..... 44

Recommendation 12

That Fisheries and Oceans Canada, Environment and Climate Change Canada and Parks Canada Agency collaborate on best community relations/consultation practices and examine alternative process models (e.g., 'consensus' versus 'democratic' (majority rule) decision-making; 'incentive' versus 'regulatory' management; goal setting targeting 'abundance' versus 'sustainability')..... 44

Recommendation 13

That, in order for marine protected areas to be truly sustainable, the process used to create them undertake meaningful consultation with all persons holding a direct stake in the marine protected areas' resources early in the process of establishing them. 45

Recommendation 14

That consultation related to the establishment of marine protected areas give primary consideration to local stakeholders whose support and contribution are essential to the establishment and sustainability of a marine protected area. 45

Recommendation 15

That the creation of a marine protected area be founded on clear objectives, the best available science or, in urgent situations, the application of the precautionary principle, all informed by traditional knowledge contributed by the local Indigenous communities and fishers that have traditionally operated in the area..... 47

Recommendation 16

That marine protected areas be established with clearly defined objectives such as biodiversity targets that can be measured and assessed on an ongoing basis to determine the performance of each MPA. 47

Recommendation 17

That local and Indigenous knowledge be combined with available science in determining the objectives, composition, allowable activities and characteristics of a marine protected area. 47

Recommendation 18

That, given the potential challenges with interpretation when applying the precautionary principle, the Government of Canada recognize the precautionary principle is no substitute for science and cannot replace Canada's proven processes of consultation and scientific assessment. 47

Recommendation 19

That minimum standards for marine protected areas be established on a case-by-case basis and tailored to the needs and interests of the local ecology, biodiversity, people and economies that depend on their resources. 49

Recommendation 20

That areas covered by "other effective area-based conservation measures" be included in consideration when determining total areas of protection. 52

Recommendation 21

That, when possible, marine protected areas be situated and designed to complement other marine protected areas, on-shore protected areas and inshore conservation areas, to create a network that promotes biodiversity and habitat protection. 55

Recommendation 22

That marine protected areas be operated on an adaptive management framework, with a strong ongoing role in data gathering and compliance monitoring for Indigenous communities and fishers in the surrounding areas. 58

Recommendation 23

That, recognizing the essential role of regulatory enforcement to a marine protected area's success, the enforcement needs of a marine protected area be paired with a congruent and sustained funding plan to sustain the required enforcement personnel and resources. 58

Recommendation 24

That the Government of Canada expand the cooperative work of Parks Canada Agency, Fisheries and Oceans Canada and other departments to share best proven practices for establishing marine protected areas in Canada's Northwest. 60

HEALTHY OCEANS, VIBRANT COASTAL COMMUNITIES: STRENGTHENING THE *OCEANS ACT* MARINE PROTECTED AREAS' ESTABLISHMENT PROCESS

CONSERVATION OF MARINE BIODIVERSITY

Canada has the world's longest coastline, and oceans under Canadian jurisdiction represent an area equivalent to approximately 55% of the country's landmass.[1] Canada's oceans host a multitude of ecosystems with high biodiversity. This marine biodiversity sustains some of the world's richest fishing grounds and contributes to the cultural and socio-economic vibrancy of Canadian coastal communities.

In 2012, a Royal Society of Canada Expert Panel published a seminal report assessing the state of Canada's marine biodiversity.[2] The report concluded that Canada's marine environment was threatened and its biodiversity was at risk. The continued decline of many fish stocks has had an impact on the resilience of marine ecosystems, as well as on food security, economic development, and the social welfare of coastal communities.[3]

A. International Commitments

In 1992, governments of the world came together at the United Nations Conference on the Environment and Development held in Rio de Janeiro (also known as the "Earth Summit"). At this meeting, participants agreed to the *Convention on Biological Diversity*, "affirming that the conservation of biological diversity is a common concern of humankind."[4] Canada was the first industrialized country to sign the Convention. Recognizing the worldwide decline in marine biodiversity, parties to the 2002 World Summit on Sustainable Development, including Canada, agreed to establish national networks of marine protected areas (MPAs).[5] At the 2010 Conference of the Parties to

1 Fisheries and Oceans Canada [DFO], *Spotlight on Marine Protected Areas in Canada*.

2 The Royal Society of Canada Expert Panel, *Sustaining Canada's Marine Biodiversity: Responding to the Challenges Posed by Climate Change, Fisheries, and Aquaculture*, February 2012.

3 D. Pauly et al., "Global Trends in World Fisheries: Impacts on Marine Ecosystems and Food Security," *Philosophical Transactions of the Royal Society B*, Vol. 360, 29 January 2005.

4 Convention on Biological Diversity, *Preamble*.

5 International Union for Conservation of Nature, *Marine Protected Areas – Why Have Them?*

the United Nations *Convention on Biological Diversity* in Nagoya, Aichi Prefecture, Japan, Canada agreed to the Strategic Plan for Biodiversity 2011–2020, which included a set of 20 targets, more commonly known as the "Aichi Targets."

Aichi Target 11 committed parties to a goal of protecting at least 10% of coastal and marine areas by 2020, "especially areas of particular importance for biodiversity and ecosystem services."[6] These areas were to be "conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures [OEABCMs][7]." In 2015, Aichi Target 11 was re-emphasized as part of the United Nations 2030 Agenda for Sustainable Development's Goal 14 adopted by all 193 member states, including the Government of Canada.[8]

B. Canadian Priorities

To support Canada's international commitments, in 2011, federal, provincial and territorial members of the Canadian Council of Fisheries and Aquaculture Ministers approved the National Framework for Canada's Network of Marine Protected Areas.[9] Building on this framework, Canada developed the 2020 Biodiversity Goals and Targets for Canada which included a suite of objectives for the conservation of biodiversity.[10] Target 1 of that document reflects Aichi Target 11 and highlights Canada's commitment related to area-based conservation, including to MPAs.

In 2015, in recognition of the need to support the momentum towards the conservation of biodiversity, ministerial mandate letters reaffirmed protected areas a priority for the federal government. Specific to MPAs, the Prime Minister's mandate letter to the Minister of Fisheries, Oceans and the Canadian Coast Guard set, as a priority, to "increase the proportion of Canada's marine and coastal areas that are protected – to 5% by 2017, and

---

6 *Convention on Biological Diversity*, "Target 11," *Aichi Biodiversity Targets*.

7 The term "other effective area-based conservation measures" (OEABCMs) was first introduced in 2010 at the 10th meeting of the Conference of the Parties to the United Nations *Convention on Biological Diversity*. OEABCMs are referred to by DFO as "marine refuges" and include certain areas closed to fishing activities such as the Corsair and Georges Canyons Conservation Area. According to DFO's *Operational Guidance for Identifying 'Other Effective Area-Based Conservation Measures' in Canada's Marine Environment*, to be recognized as an OEABCM, a conservation area must meet five criteria, including being intended for the long term. If a conservation area qualifies as an OEABCM, it can then contribute to Canada's achievement of marine conservation Aichi Target 11 under the United Nations *Convention on Biological Diversity*. See: DFO, *Other effective area-based conservation measures: Creating marine refuges in Canada*.

8 United Nations, "Goal 14 targets," *Sustainable Development Goals*, 2015.

9 DFO, *National Framework for Canada's Network of Marine Protected Areas*, 2011.

10 DFO, *2020 Biodiversity Goals and Targets for Canada*, 2016.

10% by 2020 – supported by new investments in community consultation and science."[11] In addition, Budget 2016 allocated $81.3 million "to support marine conservation activities, including the designation of new MPAs under the *Oceans Act*."[12]

At the federal level, the responsibility for marine conservation is shared between three entities, as follows:[13]

- Fisheries and Oceans Canada (DFO) is responsible for MPAs as defined in the *Oceans Act*;[14]
- Parks Canada Agency is responsible for national marine conservation areas;[15] and
- Environment and Climate Change Canada is responsible for migratory bird sanctuaries[16] and national wildlife areas (including marine wildlife areas).[17]

Each of the above entities may also establish OEABCMs.

Federal protected areas established by the means listed above, as well as provincially protected marine areas and OEABCMs[18] (e.g., certain fishery closures under the federal *Fisheries Act*), all contribute towards Canada achieving its marine conservation targets. Section 35(2) of the *Oceans Act* states that the Minister of Fisheries, Oceans and the Canadian Coast Guard is responsible for leading and coordinating "the development and implementation of a national system of marine protected areas on behalf of the Government of Canada."[19]

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11 Office of the Prime Minister of Canada, *Minister of Fisheries, Oceans and the Canadian Coast Guard Mandate Letter*.

12 Government of Canada, Budget 2016, *Growing the Middle Class*, 22 March 2016.

13 DFO, "Marine Protected Areas," ***Reports and Publications***.

14 *Oceans Act*, S.C. 1996, c. 31.

15 Parks Canada, *National Marine Conservation Areas*.

16 Environment and Climate Change Canada, *Migratory Bird Sanctuaries across Canada*.

17 Environment and Climate Change Canada, *National Wildlife Areas across Canada*.

18 DFO, *Operational Guidance for Identifying 'Other Effective Area-Based Conservation Measures' in Canada's Marine Environment*.

19 *Oceans Act*, S.C. 1996, c. 31.

C. Protected Areas: Definitions and Guidelines

The International Union for Conservation of Nature (IUCN) defines an MPA as:

> A clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.[20]

The IUCN, of which Canada is a member, refines the classification of protected areas or zones with six categories, which range from strictly protected reserves to areas allowing the sustainable use of natural resources:

- Category Ia – Strict nature reserve: Strictly protected for biodiversity and also possibly geological/geomorphological features, where human visitation, use and impacts are controlled and limited to ensure protection of the conservation values.
- Category Ib – Wilderness area: Usually large unmodified or slightly modified areas, retaining their natural character and influence, without permanent or significant human habitation, protected and managed to preserve their natural condition.
- Category II – National park: Large natural or near-natural areas protecting large-scale ecological processes with characteristic species and ecosystems, which also have environmentally and culturally compatible spiritual, scientific, educational, recreational and visitor opportunities.
- Category III – Natural monument or feature: Areas set aside to protect a specific natural monument, which can be a landform, sea mount, marine cavern, geological feature such as a cave, or a living feature such as an ancient grove.
- Category IV – Habitat/species management area: Areas to protect particular species or habitats, where management reflects this priority. Many will need regular, active interventions to meet the needs of particular species or habitats, but this is not a requirement of the category.
- Category V – Protected landscape or seascape: Where the interaction of people and nature over time has produced a distinct character with

20 J. Day et al., *Guidelines for Applying the IUCN Protected Area Management Categories to Marine Protected Areas*, International Union for Conservation of Nature, 2012, p. 12.

significant ecological, biological, cultural and scenic value; and where safeguarding the integrity of this interaction is vital to protecting and sustaining the area and its associated nature conservation and other values.

- Category VI – Protected areas with sustainable use of natural resources: Areas which conserve ecosystems, together with associated cultural values and traditional natural resource management systems. Generally large, mainly in a natural condition, with a proportion under sustainable natural resource management and where low-level non-industrial natural resource use compatible with nature conservation is seen as one of the main aims.[21]

The establishment and management of IUCN protected areas are guided by several principles, including:[22]

- conserving nature as the main objective and priority;
- protected areas must prevent, or eliminate, where necessary, any exploitation that will be harmful to the objectives of designation;
- protected areas should not be used as an excuse for dispossessing people of their sea territory; and
- protected areas should be managed in perpetuity and not as a short term or temporary management strategy.

The World Database on Protected Areas (WDPA) is the internationally used tool for reporting on the progress towards achieving the Aichi biodiversity targets.[23] The WDPA uses the IUCN definition of a protected area as the main criteria for an area's entry into the database. Canada has set up the Conservation Areas Reporting and Tracking System (CARTS) under the auspices of the Canadian Council on Ecological Areas to capture Canadian protected area data, which is then made available to the WDPA.[24] According to DFO, about 7.75% of Canada's oceans have been recognized as protected as of December 2017.[25]

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21 J. Day et al., *Guidelines for Applying the IUCN Protected Area Management Categories to Marine Protected Areas*, International Union for Conservation of Nature, 2012, p. 9.

22 J. Day et al., *Guidelines for Applying the IUCN Protected Area Management Categories to Marine Protected Areas*, International Union for Conservation of Nature, 2012, p. 15.

23 International Union for Conservation of Nature, UN Environment and UNEP World Conservation Monitoring Centre, *World Database on Protected Areas*.

24 Canadian Council on Ecological Areas, *CARTS Introduction*.

25 DFO, *New marine refuges off the coasts of Nunavut and Newfoundland and Labrador*, 21 December 2017.

D. *Oceans Act* Marine Protected Areas

Section 35(1) of Canada's *Oceans Act*, as of February 2018, defines an MPA as:

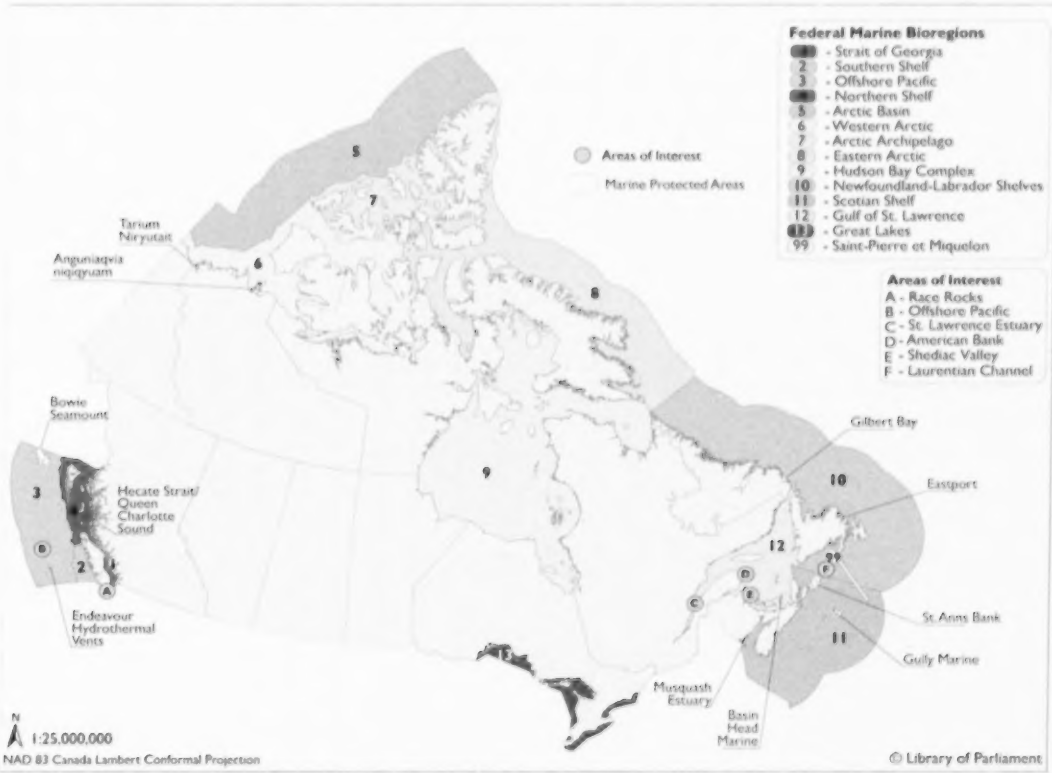
> [A]n area of the sea that forms part of the internal waters of Canada, the territorial sea of Canada or the exclusive economic zone of Canada and has been designated under this section or section 35.1 for special protection for one or more of the following reasons:
>
> (a) the conservation and protection of commercial and non-commercial fishery resources, including marine mammals, and their habitats;
>
> (b) the conservation and protection of endangered or threatened marine species, and their habitats;
>
> (c) the conservation and protection of unique habitats;
>
> (d) the conservation and protection of marine areas of high biodiversity or biological productivity; and
>
> (e) the conservation and protection of any other marine resource or habitat as is necessary to fulfil the mandate of the Minister.

As previously stated, the *Oceans Act* gives the Minister of Fisheries, Oceans and the Canadian Coast Guard the responsibility of leading and coordinating Canada's national network of marine protected areas. Regulations made under the *Oceans Act* designate the MPAs (i.e., describe the physical limits of the area or areas in question) as well as determine the activities that are prohibited and permitted within that specific MPA.

To date, Canada has designated 11 MPAs under the *Oceans Act* (Figure 1).[26] These 11 MPAs conserve approximately 0.5% of Canada's coastal and marine environment.

26 DFO, *Marine protected areas (MPAs) and their regulations*.

Figure 1 – *Oceans Act* Marine Protected Areas and Areas of Interest



Source: Map prepared by Library of Parliament, Ottawa, 21 February 2018, using data from: Natural Resources Canada (NRCan), Place Names, in Atlas of Canada National Scale Data 1:5,000,000 Series, 2013; NRCan, Boundary Polygons, in Atlas of Canada National Scale Data 1:5,000,000 Series, 2013; DFO, Areas of interest (AOIs); DFO, Marine protected areas (MPAs) and their regulations; DFO, Federal Marine Bioregions. The following software was used: Esri, ArcGIS, version 10.3.1. Contains information licensed under Open Government Licence – Canada.

Note: Areas of interest (AOIs) are identified by DFO as areas that contain ecologically sensitive habitat or species that need extra protection.

COMMITTEE'S STUDY

The House of Commons Standing Committee on Fisheries and Oceans (the Committee) agreed on 12 December 2016 to undertake a study to examine the criteria and process being used by DFO to identify and establish *Oceans Act* MPAs with the objective of ensuring that the criteria and process are aligned and achieve the intended benefits of MPAs.[27] The study also assessed the "social, economic and environmental impacts of the MPAs," and ensured that "all traditional uses and values are duly considered and respected in the criteria and process for identifying and establishing MPAs."

Earlier that year, in January 2016, a resolution entitled *Conserving and Sustainably Managing our Shared Ocean* (the Resolution) was adopted at the 24th Annual Meeting of the Asia-Pacific Parliamentary Forum held in Vancouver.[28] The Resolution was put forward by an all-party Canadian parliamentary delegation committing to "promote tools for sustainable coastal and oceans management, including the enactment of marine protected areas, consistent with international law and based on the best available scientific information," and to "provide oversight of the national implementation of international and regional conventions and commitments on ocean conservation and management."

This report reflects the evidence submitted to the Committee from 4 April 2017 to 6 February 2018. During this period, the Committee held 18 meetings in Ottawa and heard from 70 witnesses. The Committee also received 17 briefs. The Committee would like to express their thanks to the participants who shared their knowledge and recommendations over the course of this study.

From 29 May 2017 to 1 June 2017, the Committee conducted consultations in Inuvik, Paulatuk and Tuktoyaktuk, communities that are adjacent to the Tarium Niryutait and Anguniaqvia niqiqyuam MPAs in the Northwest Territories. During that period, the Committee also visited Prince Rupert, located near the Hecate Strait/Queen Charlotte Sound Glass Sponge Reefs MPA in British Columbia. Subsequent to its consultations in the Western Arctic and the Pacific Coast, the Committee travelled to Nova Scotia (Halifax, Sydney and Cheticamp), New Brunswick (Shippagan), and Quebec (Gaspé) from 16 to 20 October 2017. The discussions held at these sites gave the Committee an invaluable perspective on established and proposed MPAs and their impacts on adjacent coastal communities.

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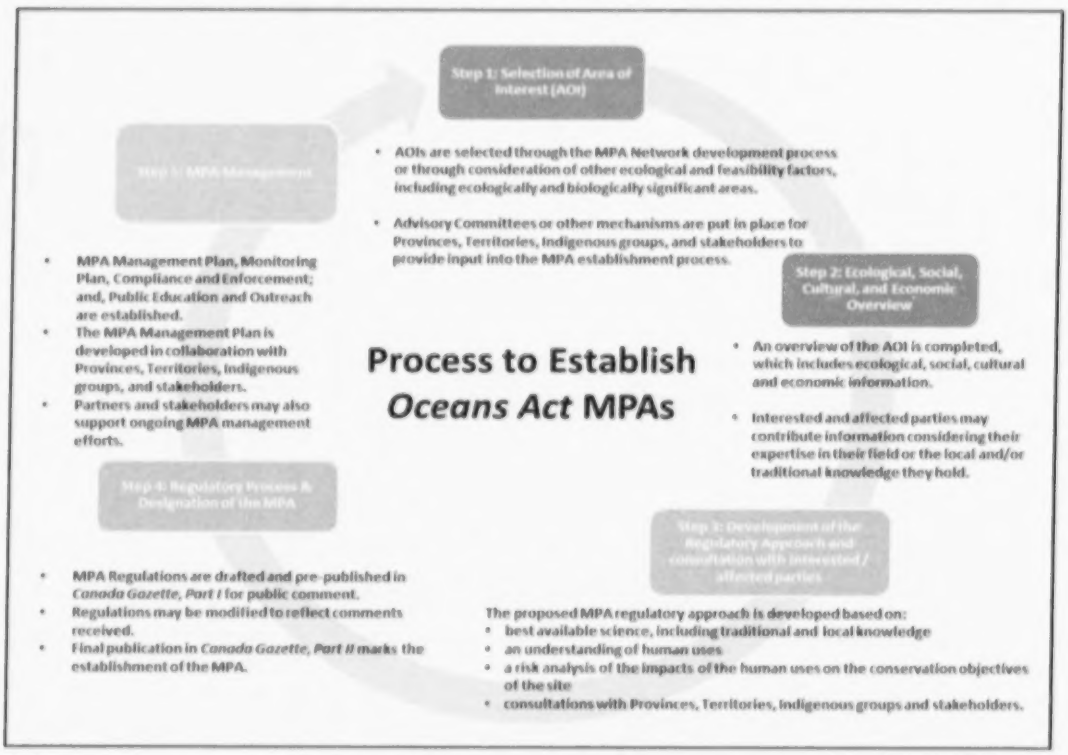
27 House of Commons Standing Committee on Fisheries and Oceans, *Minutes of Proceedings*, 12 December 2016.

28 24th Annual Meeting of the Asia-Pacific Parliamentary Forum, "Conserving and Sustainably Managing our Shared Ocean," *Final Resolutions*.

CURRENT CRITERIA AND PROCESS USED TO IDENTIFY AND ESTABLISH *OCEANS ACT* MARINE PROTECTED AREAS

DFO presented the Committee with the five-step process it uses to identify, establish, and manage *Oceans Act* MPAs (Figure 2).

Figure 2 – DFO's Five-Step Process to Identify, Establish, and Manage MPAs


Step 1: Selection of Area of Interest (AOI)
AOIs are selected through the MPA Network development process or through consideration of other ecological and feasibility factors, including ecologically and biologically significant areas.
Advisory Committees or other mechanisms are put in place for Provinces, Territories, Indigenous groups, and stakeholders to provide input into the MPA establishment process.
Step 2: Ecological, Social, Cultural, and Economic Overview
An overview of the AOI is completed, which includes ecological, social, cultural and economic information.
Interested and affected parties may contribute information considering their expertise in their field or the local and/or traditional knowledge they hold.
Process to Establish Oceans Act MPAs
Step 3: Development of the Regulatory Approach and consultation with interested / affected parties
The proposed MPA regulatory approach is developed based on:
best available science, including traditional and local knowledge
an understanding of human uses
a risk analysis of the impacts of the human uses on the conservation objectives of the site
consultations with Provinces, Territories, Indigenous groups and stakeholders.
Step 4: Regulatory Process & Designation of the MPA
MPA Regulations are drafted and pre-published in Canada Gazette, Part I for public comment.
Regulations may be modified to reflect comments received.
Final publication in Canada Gazette, Part II marks the establishment of the MPA.
Step 5: MPA Management
MPA Management Plan, Monitoring Plan, Compliance and Enforcement; and, Public Education and Outreach are established.
The MPA Management Plan is developed in collaboration with Provinces, Territories, Indigenous groups, and stakeholders.
Partners and stakeholders may also support ongoing MPA management efforts.

Source: Fisheries and Oceans Canada for the Library of Parliament, 2017.

DFO stated that its five-step process is based on three principles:

- science-based decision-making;
- transparency with regard to consultations with various parties; and
- advancing reconciliation with Indigenous peoples by respecting existing treaties and progressing toward the completion of modern treaties.[29]

29 DFO, Brief entitled *Marine Conservation Targets (MCT)*, 4 April 2017.

A. Precautionary Approach

Philippe Morel from DFO noted that, in accordance with the preamble of the *Oceans Act*, the MPA process is also guided by the precautionary approach which recognizes that, in absence of scientific certainty, conservation measures should be taken when there is a risk of serious or irreversible harm to the environment and/or resources.[30]

During its visit to the Western Arctic, the Committee heard from the Paulatuk Hunters and Trappers Committee (Lawrence Ruben, Ray Ruben, Jody and Joe Illisiak, Noel Green, and Diane Ruben) that the precautionary approach was very much at the heart of the community-initiated Anguniaqvia niqiqyuam MPA. The Paulatuk community viewed its adjacent MPA as a protection tool for their subsistence fisheries against future threats derived from the warming climate and associated sea ice decline, such as increased marine shipping or offshore industrial development.

B. Science-Based Decision-Making

The Committee heard from numerous witnesses that a science-based decision-making process is critical to ensuring that MPAs achieve their intended benefits. For instance, Susanna Fuller from the Ecology Action Centre emphasized the importance of science-based decision-making in the context of conflicting ocean uses: "By focusing on using the best available science, we are creating a level playing field for all ocean users. We are also setting a consistent and predictable process."[31]

1. Selecting Areas of Interest

The selection of areas of interest (AOIs) – Step 1 in DFO's five-step process – is based on ecological and feasibility factors, including ecologically and biologically significant areas (EBSAs) already identified by DFO scientists, stakeholders and/or local communities.[32] During Step 1, advisory committees are established to provide input into the MPA establishment process. Annette Daley from DFO pointed to the example of the St. Anns Bank MPA. The AOI boundaries of St. Anns Bank were initially determined based on

30 Philippe Morel, Acting Senior Assistant Deputy Minister, Ecosystems and Fisheries Management, DFO, *Evidence*, 4 April 2017.

31 Susanna Fuller, Senior Marine Conservation Coordinator, Ecology Action Centre, *Evidence*, 11 April 2017.

32 Philippe Morel, Acting Senior Assistant Deputy Minister, Ecosystems and Fisheries Management, DFO, *Evidence*, 4 April 2017.

ecological and biological scientific information, and were then refined and modified in later steps following consultations with advisory committees and other parties.[33]

2. Community-driven Protection

Potential MPAs can also be identified based on interest expressed and knowledge held by coastal communities and resource users. Examples include the Eastport MPA[34] in Newfoundland and Labrador – which was initially identified by commercial fishers to help address declining lobster catches in the area – and the Anguniaqvia niqiqyuam MPA in the Northwest Territories – first identified to protect beluga whales for subsistence harvest. Connie Blakeston and Ellen Lea from DFO Inuvik indicated that, in accordance with the guidelines of the Inuvialuit Renewable Resource Conservation and Management Plan, the Sachs Harbour community had been calling for the establishment of an MPA to protect beluga whales migrating through that area. In Prince Rupert, the Lax Kw'alaams Band expressed its support for greater protection for the Flora Bank area, which contains eelgrass providing natural habitat for juvenile salmon in the Skeena River estuary. The Committee also heard support from the Metlakatla First Nation for establishing new MPAs in the Chatham Sound area to protect local glass sponge reefs.

3. Establishing a Marine Protected Area

Philippe Morel noted that traditional ecological knowledge shared by Indigenous peoples and community knowledge – including socio-economic information, put forward by industries and coastal communities – are integrated in DFO's science-based decision-making process (Step 2). Conservation objectives, the delineation of the proposed MPA's boundaries, and the risk assessment of human activities within the MPA are then determined in Step 3. The regulatory process and the designation of the MPA are conducted in Step 4. Once an MPA has been formally designated (i.e., through regulations under the *Oceans Act*), an adaptive management plan is established in the final step (Step 5) to enable the management of human activities in accordance with the MPA's conservation objectives. The management plan includes enforcement activities that could be carried out by DFO in collaboration with provincial authorities and coastal communities.

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33 Annette Daley, Director, Oceans Management, Maritimes Region, DFO, Evidence, 4 April 2017.

34 Dwan Street, Projects Coordinator, Fish, Food and Allied Workers, Evidence, 28 September 2017.

4. Zones of Protection

DFO's adaptive management approach can include the identification of core protection zones where human activities are restricted (subject to exceptions), combined with adaptive management zones where – depending on the MPA's conservation objectives – a greater number of activities are permitted.[35] Jeff MacDonald from DFO used the example of the Gully MPA to illustrate DFO's adaptive management approach. Within that MPA, fishing activities are restricted in the core protection zone to shelter the endangered northern bottlenose whale, while mid-water trawling and swordfishing are allowed in the adaptive management areas surrounding the core zone.[36] As indicated by Dan Laffoley from the IUCN, this zoning approach conforms to IUCN guidelines which recognize zone types, ranging from strictly protected areas to those areas that allow multiple human activities.[37]

C. Transparency With Regard to Consultations

As shown in Figure 1, in addition to the 11 established MPAs, DFO is considering six AOIs for potential MPA designation. Prior to the drafting of regulations – which are specific to each MPA – regulatory impact analyses are undertaken by DFO in consultation with various advisory committees and other parties. Philippe Morel explained that "every effort is made to understand, analyze and minimize the economic impact on marine user groups while respecting the conservation objectives."[38]

According to DFO, there is also ongoing collaboration with provinces and territories through the Canadian Council of Fisheries and Aquaculture Ministers as required by the 2011 National Framework for Canada's Network of Marine Protected Areas. Engagement with coastal communities, industries, environmental organizations and other parties occurs at the regional level as well as at the national level.[39] At the regional level, Annette Daley mentioned that consultations are carried out through open houses and species advisory committees comprising representatives from academia, the provinces, Indigenous communities, industry groups, and fisheries organizations.[40]

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35 Jeff MacDonald, Director General, Oceans and Fisheries Policy, DFO, *Evidence*, 4 April 2017.

36 Jeff MacDonald, Director General, Oceans and Fisheries Policy, DFO, *Evidence*, 4 April 2017.

37 Dan Laffoley, Marine Vice-Chair, World Commission on Protected Areas, International Union for Conservation of Nature, *Evidence*, 13 April 2017.

38 Philippe Morel, Acting Senior Assistant Deputy Minister, Ecosystems and Fisheries Management, DFO, *Evidence*, 4 April 2017.

39 DFO, Brief entitled *Marine Conservation Targets (MCT)*, 4 April 2017.

40 Annette Daley, Director, Oceans Management, Maritimes Region, DFO, *Evidence*, 4 April 2017.

D. Indigenous Considerations

1. Indigenous Rights and Interests

In Natalie Ban's opinion, the establishment of MPAs needs to consider Indigenous rights and cultural priorities, and should be carried out in partnership with local Indigenous communities.[41] She added that MPAs and their joint management with Indigenous communities can "provide ecological conservation, cultural conservation, food security and play a role in reconciliation." Natalie Ban stressed that the loss of marine species would not only be a biodiversity issue but would also threaten "the cultural continuity and revitalization of Indigenous practices."

In Nunavut, in accordance with the Nunavut Land Claims Agreement, Inuit Impact Benefit Agreements are to be negotiated prior to finalizing the establishment of *Oceans Act* MPAs.[42] In the Western Arctic, the Chair of the Inuvialuit Regional Corporation (IRC), Duane Smith, reminded the Committee that marine conservation initiatives must respect Inuvialuit rights, as defined in the Inuvialuit Final Agreement.

During its stay in Inuvik, the Committee heard from Inuvialuit organizations – including the Inuvialuit Game Council (Patrick Gruben), the Fisheries Joint Management Committee (Gerald Inglangasuk, Brian Zytaruk, Emily Way-Nee, and Kristin Hynes), the Inuvik Community Corporation (Rory Voudrach and Edgar Maring), the IRC (Duane Smith and Kate Darling), and the Inuvialuit Joint Secretariat (Mike Harlow) – that there is a community consensus regarding the establishment of MPAs in the Inuvialuit Settlement Region (ISR). The commitment of the Inuvialuit people to the Tarium Niryutait and the Anguniaqvia niqiqyuam MPAs demonstrates that sustaining the marine ecosystem to preserve Inuvialuit cultural identity and subsistence harvesting traditions is a priority. Concerns were expressed by Inuvialuit organizations about the increase in public access to the area with the opening of the year-round Inuvik-Tuktoyaktuk Highway and the surge in cruise ship activity due to changing sea ice conditions. In Paulatuk, the Committee was reminded that the Anguniaqvia niqiqyuam MPA was named in honour of Nelson Green, a respected Inuvialuit elder from Paulatuk, whose traditional hunting grounds were known by the same name.

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41 Natalie Ban, Assistant Professor, School of Environmental Studies, University of Victoria, As an Individual, *Evidence*, 11 May 2017.

42 DFO, Brief entitled *Marine Conservation Targets (MCT)*, 4 April 2017.

2. Co-Management

Inuvialuit representatives in Inuvik, Paulatuk, and Tuktoyaktuk told the Committee that the integration of traditional ecological knowledge in the MPA process within the ISR was facilitated by the co-management framework set out in the Inuvialuit Final Agreement. They explained that this framework ensures the respect of Inuvialuit harvesting bylaws and is a critical element in building trust between the Inuvialuit people and the federal government throughout the MPA establishment process. In the view of Inuvialuit representatives, through co-management, the partnership between Indigenous peoples and the federal government in the MPA process represents an essential element in overcoming conflict seen elsewhere.

Connie Blakeston and Ellen Lea from DFO Inuvik explained that it was imperative to integrate traditional ecological knowledge and community-based monitoring data into the MPA science-based decision-making processes in the Arctic. They also noted that partnerships with local Indigenous peoples may also lessen the cost of carrying out research in the Arctic while benefiting local employment.

E. Plan to Achieve Canada's Marine Conservation Targets

In June 2016, given the current pace of establishing *Oceans Act* MPAs – which was noted as taking on average between five and seven years – the Government of Canada announced a five-point plan to help meet its marine conservation targets. The plan included:[43]

- advancing work that was already underway in the identified AOIs;
- establishing new, large *Oceans Act* MPAs in offshore areas;
- establishing *Oceans Act* MPAs in areas under pressure from human activities;
- identifying OEABCMs, such as certain fishery closures under the *Fisheries Act*, particularly to protect sensitive sponge and coral concentrations; and
- amending the *Oceans Act* to facilitate the designation process for MPAs.

43 DFO, Brief entitled *Marine Conservation Targets (MCT)*, 4 April 2017.

Jeff MacDonald brought to the Committee's attention the fact that identifying an area as an AOI does not necessarily lead to it ultimately being designated as an MPA. Through science and consultation, the Department determines whether an *Oceans Act* MPA is the right tool for protecting that area. Other statutory instruments (e.g., OEABCMs or provincial/territorial protection), could be used to achieve the conservation objectives of the AOI.

The Nunavut Planning Commission suggested that DFO should consider "prioritizing the completion of MPAs in the Arctic Ocean to meet its conservation targets."[44] The Commission mentioned that there is at least one potential MPA near Igloolik, that was "underway but seems to have been discontinued in 2010 for unknown reasons." Similarly, Paul Crowley from World Wildlife Fund–Canada reminded the Committee that, in 2016, Canada pledged to create a pan-Arctic MPA network protecting at least 10% of Arctic waters.[45]

According to Philippe Morel, the protection coverage of Canada's coastal and marine areas has increased from 0.9% in 2015 to 7.75% in December 2017.[46] However, he also acknowledged that most of DFO's progress came from the designation of OEABCMs, also referred to by DFO as "marine refuges". Since 2015, new *Oceans Act* MPAs only contributed 0.32% to Canada's marine conservation targets.

The Committee recommends:

Recommendation 1

That, when identifying new areas of interest for marine protected areas, the Government of Canada evaluate net economic and social values and responsibilities, including cost of patrol and enforcement in Canada, particularly for remote marine areas.

ENVIRONMENTAL IMPACTS OF MARINE PROTECTED AREAS

MPAs and fisheries management measures, such as harvest allocations and restrictions on harvesting gear, both contribute to marine conservation. For Dan Edwards from the Area A Crab Association, "in areas of the world where well-managed fisheries exist, MPAs are of little use, and in those jurisdictions, the establishment of MPAs has serious

44 Nunavut Planning Commission, *Brief*, 30 May 2017.

45 Paul Crowley, Vice-President, Arctic Program, World Wildlife Fund-Canada, *Evidence*, 8 June 2017.

46 Philippe Morel, Acting Senior Assistant Deputy Minister, Ecosystems and Fisheries Management, DFO, *Evidence*, 6 February 2018.

negative economic consequences to the existing fisheries while providing little conservation benefit."[47] In Gaspé, Quebec, the Committee also heard from Joel Berthelot and O'Neil Cloutier from the Regroupement des pêcheurs professionnels du Sud de la Gaspésie that ecocertified fisheries should be permitted in all MPAs because they are "environmentally friendly."

However, Jeff MacDonald reminded Committee members that MPAs manage a range of human activities and their primary objective is the protection of marine biodiversity. In contrast, fisheries management measures only regulate fishing activities.[48] For Mark Carr, MPAs protect "not only species that inhabit that ecosystem, but also the important interactions among those species, and then the productivity and the services that marine ecosystems generate."[49]

A. A Precautionary Ocean Management Tool

Bill Wareham from the David Suzuki Foundation indicated that MPAs are one of the essential and precautionary tools in the overall ocean management strategy, especially in the context of climate change induced shifts in species distribution.[50] Jordan Nickerson, however, expressed his doubts regarding the effectiveness of MPAs by stating:

> Our oceans are warming, and organisms relocate to areas that are more conducive to living with their highly specific needs. If a location that was deemed an MPA or SBA [Sensitive Benthic Area] were highly recommended based upon science and we were locked into a lifetime ban on fishing, what value would this MPA or SBA have in 10 or 20 years?[51]

1. Creating Resilience

In Dan Laffoley's opinion, protected areas are more resilient to the effects of climate change as they allow ecosystems and higher level predatory species to recover more rapidly.[52] Mark Carr pointed out that the use of MPA networks could help accommodate this possible shift in species distribution because networks protect multiple similar or

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47 Dan Edwards, Executive Director, Area A Crab Association, *Evidence*, 28 September 2017.

48 Jeff MacDonald, Director General, Oceans and Fisheries Policy, DFO, *Evidence*, 4 April 2017.

49 Mark Carr, Professor, Department of Ecology and Evolutionary Biology, University of California-Santa Cruz, As an Individual, *Evidence*, 13 June 2017.

50 Bill Wareham, Science Projects Manager, Western Region, David Suzuki Foundation, *Evidence*, 11 April 2017.

51 Jordan Nickerson, Fish Harvester, As an Individual, *Evidence*, 11 April 2017.

52 Dan Laffoley, Marine Vice-Chair, World Commission on Protected Areas, International Union for Conservation of Nature, *Evidence*, 13 April 2017.

complementary zones within a given region.[53] During its visit to the Bedford Institute of Oceanography in Nova Scotia, the Committee also heard from DFO scientists that although the species within an MPA may change over time, the physical features protected will most likely continue to be critical habitat for other species.

Dan Laffoley indicated that MPAs can act as reference ecosystems, allowing a better understanding of how human activities affect these ecosystems. In combination with fisheries management measures, MPAs can be used to protect key habitat and spawning areas.[54] For Sean Cox, however, MPAs may have little value as reference ecosystems since they are wide open to outside perturbations and environmental changes.[55] Nevertheless, he acknowledged the need for MPAs to protect specific habitats and isolated and sedentary benthic species, such as corals and sponges.

Mark Carr added that MPAs can protect whole ecosystems and act as a buffer against invasive species.[56] He cited the case of the lobster fishery off the coast of Tasmania:

> The lobster fishery off the coast of Tasmania was a sustainable fishery. With climate change, there was an invasion of a sea urchin into the kelp forests along the coast of Tasmania. In no-take reserves, the lobsters were of sufficient size and number that they could control those sea urchins. Outside of those reserves, where you were conducting a sustainable lobster fishery, you had nonetheless reduced the number and size of the lobsters to where they could not control those sea urchins. As a consequence, the urchins would remove the kelp forests, upon which a multi-million dollar abalone fishery was reliant.

Given the depleted state of Atlantic salmon and northern cod stocks in Canada, Dan Laffoley stressed that current fisheries management systems are failing to maintain productive, biodiverse, and healthy ecosystems. For his part, Daniel Pauly mentioned:

> All countries, including Canada, adhere to what is known as ecosystem-based fishing or ecosystem-based fisheries management, but that pays only lip service, because in reality we still have species-by-species management. Imagine we ban cod fishing, but actually we continue to catch cod as codlings [tom cods] as bycatch of the shrimp fishery. DFO does not report this catch because it is discarded.[57]

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53 Mark Carr, Professor, Department of Ecology and Evolutionary Biology, University of California-Santa Cruz, As an Individual, *Evidence*, 13 June 2017.

54 Dan Laffoley, Marine Vice-Chair, World Commission on Protected Areas, International Union for Conservation of Nature, *Evidence*, 13 April 2017.

55 Sean Cox, Associate Professor and Director, School of Resource and Environment Management, Simon Fraser University, As an Individual, *Evidence*, 2 May 2017.

56 Mark Carr, Professor, Department of Ecology and Evolutionary Biology, University of California-Santa Cruz, As an Individual, *Evidence*, 13 June 2017.

57 Daniel Pauly, Principal Investigator, Sea Around Us, University of British Columbia, As an Individual, *Evidence*, 13 April 2017.

2. Lacking Data

Sean Cox also indicated that stock assessments – a critical tool for fisheries management – are deficient in Canada and "[s]ome of our flatfish on the West Coast haven't been formally assessed in over 20 years."[58] Brian Clark from Pacific NorthWest LNG echoed Sean Cox's testimony by declaring that the scientific research resources to establish baselines and thresholds for effective fisheries management are lacking in the Pacific Northwest. He stated that the "last significant government research in Chatham Sound was in the 1970s."[59] The Committee heard similar concerns about insufficient data about marine fish stocks and baseline environmental information off the coast of British Columbia from commercial fishers in Prince Rupert (Robert Hauknes, Rick Haugan, Graeme Malcolm, and Gary Krause). In Inuvik, Connie Blakeston also stated that the last full beluga stock assessment in the Western Arctic was carried out about 25 years ago.

3. Spill-over Effects

Spill-over effects were mentioned by various witnesses as a positive consequence of establishing MPAs. Jeff MacDonald likened MPAs to fish sanctuaries, enhancing the spawning of species and generating greater productivity in zones adjacent to MPAs.[60] However, Larry McKinney indicated that spill-over benefits from marine reserves have been detected "only when the fishery is highly depleted, often where traditional fisheries management controls are absent."[61] Therefore, he suggested that marine reserves in jurisdictions with well-managed fisheries are unlikely to provide a net spill-over benefit. Still, in Boris Worm's view, MPAs could contribute to safeguarding against fisheries management errors. It could do so by providing protection to a portion of the stock, so that it can act as a source for population recovery if the unprotected portion of that stock were to collapse.[62]

The Committee recommends:

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58 Sean Cox, Associate Professor and Director, School of Resource and Environment Management, Simon Fraser University, As an Individual, *Evidence*, 2 May 2017.

59 Brian Clark, Environmental Advisor, Pacific NorthWest LNG, *Evidence*, 6 June 2017.

60 Jeff MacDonald, *Evidence*, 4 April 2017.

61 Larry McKinney, Executive Director, Harte Research Institute for Gulf of Mexico Studies, Texas A&M University-Corpus Christi, As an Individual, *Evidence*, 30 January 2018.

62 Boris Worm, Professor, Biology, Dalhousie University, As an Individual, *Evidence*, 30 November 2017.

Recommendation 2

That areas of interest and marine protected areas not be considered in isolation from sustainable fishery management practices.

B. Maximizing Marine Biodiversity Benefits

Stephen Woodley from the IUCN mentioned a 2009 global synthesis study[63] which demonstrates that the environmental benefits derived from MPAs are relevant in both temperate and tropical ecosystems. It also shows that although large MPAs are preferable, even small reserves can show positive environmental impacts.[64] Robert Lambert of DFO's Newfoundland and Labrador Region noted that smaller MPAs can effectively achieve conservations objectives and he provided the Eastport MPA as an example, which "continues to meet its goal of maintaining a viable population of American lobster."[65]

Citing other studies, Stephen Woodley identified five key features an MPA should have to maximize its marine biodiversity benefits: the presence of a no-take zone; good enforcement; be in place for at least 10 years; be larger than 100 square kilometres; and be well isolated.[66] In the view of Sean Cox, however, the cost of meeting all five of these criteria may outweigh benefits, as compared to the proper implementation of an ecosystem-based fisheries management approach.[67]

SOCIO-ECONOMIC IMPACTS OF MARINE PROTECTED AREAS

Rashid Sumaila indicated that MPAs act as an insurance policy against environmental uncertainty and fisheries management mistakes. They can also increase resiliency to climate change, tourism, and the value of fisheries.[68] His assessment appears to concur

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63 S. E. Lester et al., "Biological effects within no-take marine reserves: a global synthesis," *Marine Ecology Progress Series*, Vol. 384, 2009, pp. 33–46.

64 Stephen Woodley, Vice-Chair of Science and Biodiversity, World Commission on Protected Areas, International Union for Conservation of Nature, *Evidence*, 2 May 2017.

65 Robert Lambert, Director, Oceans Management, Newfoundland & Labrador Region, DFO, *Evidence*, 1 February 2018.

66 G. J. Edgar et al., "Global conservation outcomes depend on marine protected areas with five key features," *Nature*, Vol. 506, No. 7487, 2014, pp. 216–220.

67 Sean Cox, Associate Professor and Director, School of Resource and Environment Management, Simon Fraser University, As an Individual, *Evidence*, 2 May 2017.

68 Rashid Sumaila, Professor, Fisheries Economics Research Unit, Institute for the Oceans and Fisheries, University of British Columbia, *Evidence*, 8 June 2017.

with observations from the 2012 Fall Report of the Commissioner of the Environment and Sustainable Development on MPAs, which stated:

> Conserving and protecting marine biodiversity is not solely an environmental priority. As recently reported at the 2012 World Economic Forum, the ocean's natural capital (the stock of ecological goods and services that can be maintained for use in the future) is intrinsic to the health and functioning of the world economy.[69]

Boris Worm argued that, based on comprehensive research,[70] MPAs can play a critical role in rebuilding fisheries.[71] Therefore, in his view, well-designed and effective MPAs bring socio-economic benefits to coastal communities. The Committee heard from Brett Gilchrist from DFO that achieving marine conservation targets can also bring economic benefits to the Canadian fishing industry from a marketing perspective:

> Some of them [fishing industry] actually mentioned at the Boston Seafood Show that they see MPAs and their involvement in MPAs as an opportunity to promote how they're also managing their stocks responsibly from a commercial perspective.[72]

Establishing MPAs, however, can also potentially negatively impact fishing communities. Therefore, conservation actions must proactively consider both the positive and negative resulting socio-economic impacts. Paul Lansbergen from the Fisheries Council of Canada stressed that it is "critical that the economic and social costs and benefits for people living in and around the MPA, or those dependent on the goods and services derived from the area, are identified and integrated at the commencement of the process to identify "significant areas", as well as during the process to select and design MPAs."[73]

A. Impacts on the Fishing Industry

The Committee was told that conservation benefits from MPAs are often broadly distributed in space and can take a long time to be realized (e.g., spill-over benefits, rebuilding of fish stocks) while negative socio-economic impacts are usually immediate and locally concentrated[74] (e.g., the restriction of fishing activities). George Feltham, a

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69 Office of the Auditor General of Canada, "Marine Protected Areas," Chapter 3 in *2012 Fall Report of the Commissioner of the Environment and Sustainable Development*, 2012.

70 B. Worm et al., "Rebuilding Global Fisheries," *Science*, Vol. 325, No. 5940, 31 July 2009, pp. 578–585.

71 Boris Worm, Professor, Biology, Dalhousie University, As an Individual, *Evidence*, 18 May 2017.

72 Brett Gilchrist, Acting Assistant Director, Fisheries National Programs, DFO, *Evidence*, 6 February 2018.

73 Paul Lansbergen, President, Fisheries Council of Canada, *Evidence*, 30 January 2018.

74 Rashid Sumaila, Professor, Fisheries Economics Research Unit, Institute for the Oceans and Fisheries, University of British Columbia, *Evidence*, 8 June 2017.

fisher from Eastport in Newfoundland and Labrador who was actively involved in the establishment of the Eastport MPA in the early 2000s, provided an example of the spatially distributed nature of spill-over benefits.[75] In the case of the Eastport MPA, in addition to higher abundance of large egg-bearing females and increases in mean size of both male and female lobsters within the MPA, he noted that eggs dispersion due to ocean currents benefited lobster fishing areas far to the south of the MPA. In Rashid Sumaila's opinion, political leadership is needed to convince coastal communities that the "medium to long-term benefits of MPAs far outweigh the short-term costs."[76]

In cases where restrictions are imposed on fishing activities within a particular MPA, Philippe Morel explained that DFO would examine the possibility of relocating these fisheries allocations outside of the protection zones (causing fisheries displacement), encourage the use of alternative harvesting technologies, or provide opportunities in other fisheries.[77] While Robert Elliott from DFO indicated that impacts on fishers are taken into account in DFO's socio-economic impact analyses, fishers are not financially compensated by the Government of Canada for potential economic losses resulting from the establishment of an MPA.[78] Consequently, Dan Edwards suggested that including structural adjustment funds to help compensate traditional resource users whose activities were interrupted or displaced, would be an important component of the MPA planning process.[79]

The Committee recommends:

Recommendation 3

That the Government of Canada acknowledge any negative impacts on people who directly depend on the resources of a marine protected area and the Minister use his or her discretionary powers to consider providing offsetting measures in consultation with the fishing industry where loss or harm is proven.

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75 George Feltham, Fisher, Eastport Region, *Evidence*, 1 February 2018.

76 Rashid Sumaila, Professor, Fisheries Economics Research Unit, Institute for the Oceans and Fisheries, University of British Columbia, *Evidence*, 8 June 2017.

77 Philippe Morel, Acting Senior Assistant Deputy Minister, Ecosystems and Fisheries Management, DFO, *Evidence*, 4 April 2017.

78 Robert Elliott, Director General, Economic Analysis and Statistics, DFO, *Evidence*, 4 April 2017.

79 Dan Edwards, Executive Director, Area A Crab Association, *Evidence*, 28 September 2017.

1. Means of Assessing Cost

During its visit to Port Morien, Nova Scotia, the Committee also heard from board members of the Cape Breton Fish Harvesters Association (Veronica Brzeski, David Ferguson, Stewart McPherson, Frank Tredwell, and Ray Sherwood) that socio-economic impacts calculated by DFO differ substantially with fishers' estimates. The Association argued that DFO relied on outdated economic data and did not take into account the potential loss of new lucrative fisheries, such as the halibut fishery. The Groundfish Enterprise Allocation Council and the Canadian Association of Prawn Producers also added:

> When assessing both the benefits and cost of a proposed closure to harvesting activity, care must be taken to ensure a long-term perspective is taken. We routinely include survey data on larval fish distribution, plankton productivity and other metrics that extend back to the 1970s but DFO has restricted its window of assessment of fisheries impacts to the 2008 to 2014 period.[80]

Ian MacPherson from the Prince Edward Island Fishermen's Association reminded the Committee that "Prince Edward Island is a small province driven by small fishing communities. The displacement of fishers from one community to another as a result of an MPA would shift the economics of the island."[81]

In Ian MacPherson's opinion, the implementation of MPAs must be considered through a community impact lens and it "makes no sense to designate large areas of coastal waters as MPAs, but then to allow oil and gas development in the same region. An oil spill, particularly in the winter months, could significantly damage the coastlines and fisheries in all provinces in the Maritimes region due to prevailing currents." By allowing oil and gas activities to take place within an MPA while restricting fishing activities, Michel Richard from the Maritime Fishermen's Union also told the Committee that fishers "feel targeted."[82] Christina Burridge from the BC Seafood Alliance added that the "threats to our oceans are real, but they come from oil and gas exploration, the prospect of seabed mining, and ocean acidification, not fishing for food. Large no-take fishery zones will not help deal with these problems."[83] In the Committee's opinion, as part of the public consultation process, DFO should clearly explain to fish harvesters why certain activities are restricted or allowed within a particular MPA. Rob Prosper from Parks Canada Agency indicated that, in contrast to *Oceans Act* MPAs, non-renewable resource

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80 Groundfish Enterprise Allocation Council and Canadian Association of Prawn Producers, Brief, 2 February 2018.

81 Ian MacPherson, Executive Director, Prince Edward Island Fishermen's Association, Evidence, 11 April 2017.

82 Michel Richard, Union Staff Member, Maritime Fishermen's Union, Evidence, 13 April 2017.

83 Christina Burridge, Executive Director, BC Seafood Alliance, Evidence, 11 May 2017.

exploration, extraction, and ocean dumping are prohibited within national marine conservation areas under the *Canada National Marine Conservation Areas Act*.[84]

2. Concentrating Fishing Efforts

Chris Sporer from the Pacific Halibut Management Association of British Columbia pointed out that fisheries displacement can also have adverse ecological effects by concentrating the fishing effort in adjacent areas.[85] In the case of the halibut fishery off British Columbia's coast, for instance, "[v]essels would be forced from spots where they can catch halibut with little or no catch of other species [i.e., by-catch] and forced into areas in which they may encounter greater amounts of vulnerable or long-lived species such as Bocaccio or yelloweye rockfish, putting pressure on these less abundant and weak species." Therefore, in his view, a comprehensive analysis is required to assess the socio-economic and cumulative ecological impacts of all marine conservation initiatives in a given region.

In Port Morien, the Committee also heard from the Cape Breton Fish Harvesters Association that DFO failed to assess the impacts of displacing the midshore and offshore fleets on the inshore fleet. The establishment of the core protection zone for the St. Anns Bank MPA, for instance, did not directly affect the inshore fleet's fishing areas as the MPA is located offshore. However, the Association indicated the displaced midshore and offshore fleets would now compete with the inshore fleet in areas closer to the coast.

Bruce Turris from the BC Seafood Alliance explained that, in certain cases, fisheries management measures have already had an impact on the industry's ability to attain their total allowable catches.[86] Similarly, Jim McIsaac from the BC Commercial Fishing Caucus noted that there are "hundreds" of protected areas in the Pacific, such as the Rockfish Conservation Areas (RCAs).[87] In his view – which is shared by commercial fishers the Committee met in Prince Rupert – it is a "huge" challenge for commercial fisheries to contend with RCAs in addition to new MPAs because they further reduce the parts of the ocean where they are permitted to fish. RCAs are designated as fishery closures under the

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84 Rob Prosper, Vice-President, Protected Areas Establishment and Conservation, Parks Canada Agency, Evidence, 24 October 2017.

85 Chris Sporer, Executive Manager, Pacific Halibut Management Association of British Columbia, Evidence, 15 June 2017.

86 Bruce Turris, Executive Manager, Canadian Groundfish Research and Conservation Society, BC Seafood Alliance, Evidence, 11 May 2017.

87 Jim McIsaac, Managing Director, B.C. Commercial Fishing Caucus, Evidence, 11 May 2017.

Fisheries Act and do not qualify as *Oceans Act* MPAs because they lack the permanency of an MPA and do not regulate non-fishing activities. However, as Jeff MacDonald told the Committee, DFO is currently assessing if these areas meet the requirements of OEABCMs.[88] If so, RCAs could be counted towards Canada's marine conservation targets and be integrated into the broader network of MPAs.[89] During its visit to Prince Rupert, the Committee noted that Bruce Watkinson from the Gitxaala First Nation supported such integration.

Impacts of marine conservation initiatives on the fishing industry may also affect Indigenous communities who practice commercial fishing. In Prince Rupert, Bill Shepert from the Lax Kw'alaams Band told the Committee that the Band can shift its commercial fishing operations to accommodate MPAs. However, the Band requires more information and greater engagement from DFO to ascertain the impacts of marine conservation initiatives on its commercial fishing fleet.

B. Impacts on Subsistence Harvesting by Indigenous Peoples

Bruce Watkinson and Caroline Butler from the Gitxaala First Nation told the Committee in Prince Rupert that protecting marine ecosystems ensures sustainable fisheries and the maintenance of Indigenous ways of life and cultural identity. However, the Committee cannot say for certain that the compensation of relocating fishery allocations, promoting alternative harvesting technologies or providing opportunities in other fisheries could compensate Indigenous harvesters without impeding their ways of life and cultural identity. The importance of respecting the dual priorities of socially responsible and ecologically effective conservation policies and practices was stated to the Committee during its discussions with Indigenous communities on Canada's three coasts. The Committee was told that marine conservation initiatives must respect Section 35 of the *Constitution Act, 1982*, which provides constitutional protection to Indigenous peoples.

The Paulatuk Hunters and Trappers Committee representatives indicated that subsistence harvesting is key to the preservation of the community's traditional values and cultural identity. According to Jonathan Savoy from the Nunavut Planning Commission, given rapid environmental changes in the Arctic and the food security situation in Nunavut, the "need to protect subsistence fisheries using available tools, including marine protected areas, is becoming particularly pressing if not an issue of survival for many Inuit."[90]

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88 DFO, *Other effective area-based conservation measures*.

89 Jeff MacDonald, Director General, Oceans and Fisheries Policy, DFO, *Evidence*, 4 April 2017.

90 Jonathan Savoy, Manager of Implementation, Nunavut Planning Commission, *Evidence*, 6 June 2017.

The IUCN recognized that "governments and protected area managers should incorporate customary and indigenous tenure and resource use, and control systems, as a means of enhancing biodiversity conservation", and that "the rights of indigenous and other traditional peoples inhabiting protected areas must be respected by promoting and allowing full participation in co-management of resources, and in a way that would not affect or undermine the objectives for the protected area as set out in its management plan."[91] The United Nations *Convention on Biological Diversity* also includes the protection and promotion of "knowledge, innovations and practices of Indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity."[92]

C. Impacts on the Shipping Industry

Philippe Morel indicated that shipping is permitted in the majority of MPAs.[93] In situations where shipping activities are to be curtailed in certain zones, consultations are conducted with the industry in order to find alternative routes. Kevin Obermeyer from the Pacific Pilotage Authority pointed out that, in contrast to international lanes, domestic shipping lanes are not designated.[94] Therefore, Don Krusel from the Prince Rupert Port Authority suggested that the process for establishing future MPAs should "begin with an objective of designating and protecting 'safe shipping routes' ... that serve as economic arteries of the Canadian trading economy."[95]

The Committee also heard a contrasting view regarding the management of shipping activities. Pacific Wild indicated:

> One of the most serious concerns we have at present is the threat of a spill from Alaska-bound fuel shipments that are not covered by the North Coast Oil Tanker Ban, and currently traverse Hecate Strait and sections of the Inside Passage on a near-weekly basis. Marine Protected Areas cannot truly offer protection for species, habitats, and cultural areas if they are at risk of a major spill from these shipments.[96]

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91 J. Beltran (Ed.), *Indigenous and Traditional Peoples and Protected Areas: Principles, Guidelines and Case Studies*, International Union for Conservation of Nature, 2000, p. ix.

92 *Convention on Biological Diversity*, *Article 8(j) - Traditional Knowledge, Innovations and Practices*.

93 Philippe Morel, Acting Senior Assistant Deputy Minister, Ecosystems and Fisheries Management, DFO, *Evidence*, 4 April 2017.

94 Kevin Obermeyer, Chief Executive Officer, Pacific Pilotage Authority, *Evidence*, 26 September 2017.

95 Don Krusel, President and Chief Executive Officer, Prince Rupert Port Authority, *Evidence*, 9 May 2017.

96 Pacific Wild, *Brief*, 24 January 2018.

Regarding international shipping lanes, Chris Wellstood from the Vancouver Fraser Port Authority noted that ships travelling to the Port of Vancouver currently use a designated route that was adopted by the International Maritime Organization.[97] In his view, the establishment of MPAs should also take into account international shipping regulatory issues.

D. Performance Assessments

Evaluating the environmental and socio-economic impacts of MPAs as well as addressing the distribution of benefits and costs contribute to making MPAs a socially and economically attractive tool.[98] However, Ian MacPherson mentioned the current lack of detailed cost and benefit assessments of existing and proposed MPAs.[99] His view echoes the testimony heard by the Committee in Port Morien from the Cape Breton Fish Harvesters Association. Therefore, Sharon Ehaloak recommended that DFO engage in further research regarding the potential positive economic impacts of MPAs.[100] The Canadian Sportfishing Industry Association also recommended that the establishment of MPAs be "based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to users of the area, overall fishing activity, fishery science, and fishery and marine conservation."[101]

Alan Martin from the B.C. Wildlife Federation added that accountability and reporting on MPA performance are needed.[102] In fact, one of the recommendations to DFO in the 2012 Fall Report of the Commissioner of the Environment and Sustainable Development on MPAs was to "identify specific ecosystem services provided by existing and planned marine protected areas and assess their values so that Canadians and federal policy makers have better information to understand their associated benefits and costs."[103]

The Committee recommends:

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97 Chris Wellstood, Director, Marine Operations and Security, Harbour Master, Vancouver Fraser Port Authority, *Evidence*, 6 June 2017.

98 N. Dudley et al., "Recognising the Value of Protected Areas," Chapter 8 in *TEEB – The Economics of Ecosystems and Biodiversity for National and International Policy Makers*, 2009.

99 Ian MacPherson, Executive Director, Prince Edward Island Fishermen's Association, *Evidence*, 11 April 2017.

100 Sharon Ehaloak, Executive Director, Nunavut Planning Commission, *Evidence*, 6 June 2017.

101 Canadian Sportfishing Industry Association, *Brief*, 2 May 2017.

102 Alan Martin, Director, Strategic Initiatives, B.C. Wildlife Federation, *Evidence*, 13 April 2017.

103 Office of the Auditor General of Canada, "Marine Protected Areas," Chapter 3 in *2012 Fall Report of the Commissioner of the Environment and Sustainable Development*, 2012.

Recommendation 4

That the Minister of Fisheries, Oceans and the Canadian Coast Guard table an annual report to Parliament that includes the following:

- **a list of *Oceans Act* marine protected areas designated during that year;**
- **information on whether or not each established marine protected area is meeting its conservation objectives; and**
- **measures required if conservation objectives were not met.**

Each *Oceans Act* MPA's management plan includes a performance review to be conducted at specific intervals of time.[104] Such a review examines the conservation objectives of the MPA to determine if they remain appropriate, evaluates the management actions in terms of achieving the conservation objectives, and identifies important issues for the future management of the MPA. The review is based on the MPA's monitoring plan which has been developed to identify ecological, socio-economic, and governance indicators allowing managers to assess the effectiveness of the regulations and other management activities in meeting the MPA's conservation objectives. In Inuvik, the Committee was informed by Connie Blakeston and Ellen Lea from DFO that the first performance review of the Tarium Niryutait MPA would be conducted in Fall 2017.

Changes to an MPA's boundaries could also result from a performance review. The Gilbert Bay MPA in Newfoundland and Labrador was established in 2005 and its boundaries were designed based on the annual migration of Gilbert Bay cod.[105] According to the MPA's 2007 management plan, the plan will be reviewed every three years to determine management actions' effectiveness with respect to the conservation objectives.[106] The plan also mentioned that "DFO may adapt management actions on a continuous basis should amendments be appropriate." In 2008, the boundaries of the MPA's Zone 3 were modified.[107] An updated management plan was published in 2013 for the period of 2013-2018. According to the 2013 plan, further changes to the MPA's boundaries were considered since:

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104 DFO, "Process," *Marine protected areas.*

105 DFO, *Gilbert Bay MPA*.

106 DFO, *Gilbert Bay Marine Protected Area Management Plan*, June 2007.

107 *Gilbert Bay Marine Protected Area Regulations*, SOR/2005-295, ss. 2(d).

> Gilbert Bay cod were initially thought to remain inside the MPA boundaries throughout the year, acoustic telemetry and the tagging program has shown that large (commercial size) Gilbert Bay cod move into Alexis Bay during the summer to feed, and return to the MPA to spawn and over-winter."[108]

However, based on public consultations carried out in 2010, alternative options were explored to protect the Gilbert Bay cod from fishing mortality during their summer forays outside the MPA because:

> Local stakeholders expressed continued support for the current MPA boundary and prohibitions, but did not support an expansion of the MPA boundaries to include Alexis Bay, as this option would force local recreational and commercial harvesters to leave the shelter of the bay and travel an extra 40 km to access the fishing grounds. The high price of gas and the low allowable catch would effectively prevent harvesters from Port Hope Simpson from taking part in the recreational or stewardship cod fisheries.[109]

Dwan Street from the Fish, Food and Allied Workers stressed the importance of an MPA review process that would provide flexibility in MPA planning and management.[110] In her opinion:

> The marine ecosystem is dynamic. There must be a method of evaluation, and room for adjustment as changes occur. We cannot draw lines that are rigid and permanent; we must be able to re-evaluate and leave room for improvements.

The Groundfish Enterprise Allocation Council and the Canadian Association of Prawn Producers added:

> The establishment of spatial protection should be considered a first step. The requirement to monitor the effectiveness of the measure and willingness to adapt and adjust to the information collected is a key part of any modern management system. Where objectives are not being achieved, we must adapt by re-evaluating, relocating or otherwise altering our management approach. This could best be achieved through a sunset provision; with a renewal period(s) only when there is sufficient scientific evidence that the specific closure is actually providing for pre-stated conservation objectives/benefits that can be measured and identified.[111]

Phil Morlock from the Canadian Sportfishing Industry Association also emphasized that "sufficient funding should be invested in a transparent public process to review an MPA's

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108 DFO, *Gilbert Bay Marine Protected Area Management Plan 2013-2018*, 2013, p. 12.

109 DFO, *Gilbert Bay Marine Protected Area Management Plan 2013-2018*, 2013, p. 14.

110 Dwan Street, Project Coordinator, Fish, Food and Allied Workers, *Evidence*, 28 September 2017.

111 Groundfish Enterprise Allocation Council and Canadian Association of Prawn Producers, *Brief*, 2 February 2018.

performance that is consistent with its conservation objectives."[112] Commercial fishers in Prince Rupert pointed out the importance of determining the relevancy of MPA regulations in accordance with the conservation objectives and expressed doubts about DFO's capacity to assess MPA performance given insufficient baseline environmental data in British Columbia.

Therefore, the Committee recommends:

Recommendation 5

That Fisheries and Oceans Canada include a process to regularly review boundaries of existing and new marine protected areas for efficiency and relevance to optimize the protected area's performance in achieving its objectives and support the needs of local people who depend on the resources of the marine protected area.

ENHANCING THE *OCEANS ACT* MARINE PROTECTED AREAS' ESTABLISHMENT PROCESS

In order to enhance the *Oceans Act* MPA establishment process and to ensure that MPAs achieve their intended benefits, witnesses put forward a range of recommendations. Some of these recommendations are presented below.

A. Transparency: Ensuring a Comprehensive Consultation Process

While appearing before the Committee, the IUCN stressed that a "key lesson is that time spent in preparation is an essential investment that will be repaid many times over. Proponents of MPAs have to show demonstrable benefits for stakeholders, and this takes time and diplomacy."[113] The Committee heard from Natalie Ban about the importance of engagement and trust building in the consultation process. She noted that "[s]takeholder support for MPAs results in greater compliance and hence more effective biodiversity conservation outcomes. Thus, a legitimate, transparent process is particularly important."[114]

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112 Phil Morlock, Chair of Government Affairs Committee, Canadian Sportfishing Industry Association, *Evidence*, 2 May 2017.

113 World Commission on Protected Areas, IUCN, *Guidelines for Marine Protected Areas*, 1999, p. xi.

114 Natalie Ban, Assistant Professor, School of Environmental Studies, University of Victoria, As an Individual, *Evidence*, 11 May 2017.

Larry McKinney recommended that Canada incorporate the principles of the Association of Fish and Wildlife Agencies Policy Statement on Marine Protected Areas into the *Oceans Act* MPA establishment process.[115] The Statement calls for a science-based and transparent process. Such a process should also recognize the important role of fishers in marine conservation and provide meaningful opportunities for input by fishers.[116]

1. Consultation Capacity

The capacity to actively participate in numerous consultation meetings related to often concurrent marine conservation initiatives vary among parties. Susanna Fuller pointed out that small fishing associations and Indigenous communities may not have the capacity to "meaningful[ly] engage when it's most needed."[117] In Inuvik, for example, Patrick Gruben of the Inuvialuit Game Council told the Committee that Inuvialuit organizations are experiencing capacity issues participating in numerous legislation reviews affecting the region. During its visit to Gespeg, Quebec, the Committee heard similar concerns from La Nation Micmac de Gespeg (Chief Manon Jeannotte and Councillor Johanne Basque) and the Association de gestion halieutique autochtone Mi'kmaq et Malécite (Emmanuel Sandt-Duguay). For the Gespeg community, it is difficult to know which consultation process to participate in and to identify the appropriate DFO contact person for each. In addition, the time given to the community to provide feedback was deemed too short given the community's limited capacity. The Lax Kw'alaams Band representatives (Bill Shepert, Carolann Brewer, and Adam Kantakis) in Prince Rupert also stressed that they have been unable to participate in the Pacific North Coast Integrated Management Area (PNCIMA)[118] process due to a lack of funding.

The need for capacity building for many organizations interested in participating in the MPA consultation process was recognized by DFO. During its visit to the Bedford Institute of Oceanography, the Committee heard that in Nova Scotia, during the early stages of an MPA process, DFO engages with the provincial government, and Indigenous groups through the Kwilmu'kw Maw-klusuaqn Negotiation Office to determine capacity building needs.[119]

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115 Larry McKinney, Executive Director, Harte Research Institute for Gulf of Mexico Studies, Texas A&M University-Corpus Christi, As an Individual, *Evidence*, 30 January 2018.

116 Association of Fish and Wildlife Agencies, *Policy Statement on Marine Protected Areas*, 28 March 2008.

117 Susanna Fuller, Senior Marine Conservation Coordinator, Ecology Action Centre, *Evidence*, 11 April 2017.

118 DFO, *Pacific North Coast Integrated Management Area (PNCIMA)*.

119 Kwilmu'kw Maw-klusuaqn, KMKNO Mission Statement.

Bill Wareham mentioned that the Green Budget Coalition called for an additional $60 million for DFO to enhance engagement with various parties.[120] In his view, comprehensive engagement represents a "bottleneck" in the MPA establishment process and private-public partnerships, such as the ones secured in the PNCIMA process, could be beneficial. Gerry Kristianson from the Sport Fishing Advisory Board also suggested that DFO provide travel and meal reimbursements to consultation participants, facilitating the fair representation of all parties, regardless of the wealth of each group.[121]

2. Consultation Inclusiveness and Sharing of Information

2.1 Consultation Length

Gaps in the current DFO consultation process were highlighted by many witnesses. In the view of Leonard LeBlanc from the Gulf of Nova Scotia Fleet Planning Board, process is key to moving forward and achieving Canada's marine conservation targets.[122] However, he felt that DFO is "moving too fast" in trying to achieve these targets. The Groundfish Enterprise Allocation Council and the Canadian Association of Prawn Producers provided a similar assessment by referring to the case of the Shrimp Fishing Area 1:

> DFO's intent to expedite closure of this shrimp fishery in order to achieve the 5% target, resulted in undue pressures being placed on its own scientists, a very poor risk assessment, and a serious breach in trust with the industry.[123]

Susanna Fuller submitted that the pace to achieve marine conservation targets appears fast because, until 2016, "very little effort was put into the commitments Canada made in 2010. We are starting at year six instead of at year one."[124] She also added that, as a result of the slow pace of the MPA establishment process, individuals consulted at the beginning of the process are often no longer with the same organizations once the MPA is finally designated by the Governor in Council, giving the impression that individuals or organizations were not consulted.[125] The Gitxaala First Nation also pointed out that the

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120 Bill Wareham, Science Projects Manager, Western Region, David Suzuki Foundation, *Evidence*, 11 April 2017.

121 Gerry Kristianson, Chair, Sport Fishing Advisory Board, *Evidence*, 16 May 2017.

122 Leonard LeBlanc, Managing Director, Gulf of Nova Scotia Fleet Planning Board, *Evidence*, 11 April 2017.

123 Groundfish Enterprise Allocation Council and Canadian Association of Prawn Producers, *Brief*, 2 February 2018.

124 Susanna Fuller, Senior Marine Conservation Coordinator, Ecology Action Centre, *Evidence*, 11 April 2017.

125 Susanna Fuller, Senior Marine Conservation Coordinator, Ecology Action Centre, *Evidence*, 9 November 2017.

current "rate of protection tends to be far slower than the timelines on assessment and approval of major development projects."[126]

Therefore the Committee recommends:

Recommendation 6

That Fisheries and Oceans Canada consider establishing a timeline to designate *Oceans Act* marine protected areas that takes into consideration other environmental impact assessment processes.

2.2 Providing Relevant Information

In the case of the Cape Breton Trough area, located within the Western Cape Breton EBSA, Leonard LeBlanc believed that the "consultation process [to select an AOI within the EBSA] was not well planned, organized, or transparent even within DFO." He pointed to conflicting information given to fish harvesters by the Ecosystems and Fisheries Management Sector and the Ecosystems and Oceans Science Sector. In Cheticamp, Nova Scotia, the Area 19 Snow Crab Fishermen's Association representatives (Basil McLean, Tommy Campbell, and Steven Chiasson) also told the Committee that DFO did not provide scientific evidence for why the area was considered biologically important. Given that the Cape Breton Trough area was identified by DFO as part of the Western Cape Breton EBSA in a 2009 Canadian Science Advisory Secretariat report,[127] it appears to the Committee that DFO failed in properly communicating to local fishing communities the biological significance and conservation objectives for that area. In the Committee's view, this communication failure resulted in unnecessary anxiety among local fish harvesters and created an atmosphere of distrust that could affect future interactions.

The Committee also noted Leonard Leblanc's call for an MPA planning process that has been agreed upon by all parties from the start. Such a transparent process would include the sharing of information regarding the unfolding of the process, environmental and socio-economic baseline data, and conservation objectives. For the Association des crabiers acadiens in Shippagan, a proper sharing of information at the start of the MPA establishment process could reassure fish harvesters with regard to potential impacts to their livelihoods. The Association also indicated that in the case of the American Bank MPA, the process was managed by DFO's Quebec Region and that the Quebec Region

126 Gitxaala First Nation, *Brief*, 24 November 2017.

127 DFO, *Conservation Objectives for the Ecologically and Biologically Significant Areas (EBSA) of the Estuary and Gulf of St. Lawrence*, Science Advisory Report 2009/049, Canadian Science Advisory Secretariat, 2009.

did not engage with fishers from New Brunswick, despite the fact that they have licence rights in the American Bank area.

According to Leonard LeBlanc, the lack of transparency in DFO's current MPA process has led to the fishing industry's distrust towards the Department's decision-making process. He emphasized to Committee members that "fisheries are the backbone of the economy of rural Nova Scotia, and MPAs should be established with this consideration and in collaboration with those who depend on the marine resources in the area for their livelihoods." In Jordan Nickerson's view, in order to properly consult with fishers and benefit from their knowledge, DFO needs to accommodate fishers' busy schedules and not to overly rely on town hall meetings.[128] On this particular issue, the Committee learned from Andrew Thomson from DFO that the Pacific Region has established a consultations secretariat to coordinate consultations across multiple departmental initiatives while taking into account fish harvesters' schedules.[129]

Michel Richard believes that DFO should clearly communicate the geographic boundaries of potential MPAs as well as the impacts of establishing MPAs on current fishing practices in identified areas.[130] He indicated that inshore fishers must also have the opportunity to demonstrate the non-adverse effects of their fishing practices on the marine habitat. According to Michel Richard, a true consultation process does not consist of "simply sending a few documents to associations and stakeholders, and holding a few question-and-answer periods during inshore fishery advisory board meetings." In Port Morien, the Committee heard from the Cape Breton Fish Harvesters Association that DFO's consultation process is, in fact, a "presentation" process.

2.3 Marine Conservation Led by Resource Users

Commercial fish harvesters also pointed out their voluntary contribution to marine conservation. The Groundfish Enterprise Allocation Council and the Canadian Association of Prawn Producers mentioned fishery closures in Atlantic Canada that fish harvesters initiated to protect sensitive benthic features in the Scotia-Fundy and Newfoundland and Labrador regions.[131] The two organizations emphasized the need for a trusting and collaborative relationship between DFO and fish harvesters for achieving effective MPAs:

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128 Jordan Nickerson, Fish Harvester, As an Individual, *Evidence*, 11 April 2017.

129 Andrew Thomson, Regional Director, Fisheries Management, DFO, *Evidence*, 1 February 2018.

130 Michel Richard, Union Staff Member, Maritime Fishermen's Union, *Evidence*, 13 April 2017.

131 Groundfish Enterprise Allocation Council and Canadian Association of Prawn Producers, *Brief*, 2 February 2018.

> We remain actively engaged in all aspects of MPA network planning across the Atlantic and Eastern Arctic regions, including involvement in CSAS [scientific] processes aimed at ensuring that appropriate values are chosen to help delineate sensitive marine areas as candidates for protection, acting as peer-reviewers to help guide the development of avoidance protocols for scientific surveys, identifying candidate areas for closure, liaising with other fleet sectors to gain support for closure proposals and working with our membership to support DFO in achieving their targets. We have contributed our own expertise and knowledge to the underlying design methodology and have arranged for external expert opinion to help define areas needing conservation. We have supported area closures where they made sense, and pushed for changes where we felt there was room for improvement or where certain factors related to the fishing industry had not been properly characterized.

2.4 Terminology and Concurrent Processes

The Committee noted that DFO terminology for various marine conservation options or stages, such as EBSA, AOI, OEABCM, marine refuge, and MPA, appears to create confusion among various study participants, becoming a source of concern and anxiety. The Fédération régionale acadienne des pêcheurs professionnels (FRAPP) in Shippagan, New Brunswick, for instance, raised concerns regarding the recently designated Western/Emerald Banks Conservation Area (Haddock Box) as an OEABCM/marine refuge.[132] For fish harvesters, whether fishing activities are restricted as part of establishing an OEABCM or an MPA, the potential negative socio-economic impacts are similar. To help alleviate the concerns of fish harvesters, Jean Lanteigne, Michel Légère, and Lévi Noël from FRAPP proposed DFO organize a national conference on fisheries that would take place at regular intervals. Such a conference would allow for fishers to express concerns and contribute ideas to the Minister and the Department on all topics pertaining to the industry. From FRAPP's point of view, the conference, by allowing two-way communication, would also contribute to rebuild the trust between fish harvesters and DFO.

While many marine protected areas have very specific conservation goals, oftentimes they are all assumed to be "no-take" zones, potentially leading to undue concern within the fishing industry. Therefore, the Committee recommends:

Recommendation 7

That Fisheries and Oceans Canada undertake and prioritize work to clarify what individual marine protected areas are and are not, and ensure that the specific conservation goals of each marine protected area are clearly known to the local community.

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132 DFO, *Western/Emerald Banks Conservation Area (restricted fisheries zone)*.

Robert Lewis-Manning from the Chamber of Shipping of British Columbia insisted on the importance of prioritizing concurrent marine conservation initiatives to ensure that all parties are meaningfully consulted.[133] He also noted the need to develop industry-specific solutions instead of imposing constraints. In the view of Alan Martin, difficulties experienced by various parties in the current DFO consultation process arise from the Department's lack of capacity to provide support for participation, along with the timely sharing of information.[134]

2.5 Process Improvements

The Committee notes that DFO has difficulty clearly communicating changes to boundaries and other modifications made to an MPA throughout its establishment process. Trade-offs and alternative options considered during the decision-making process were also not made transparent by DFO. In the Committee's view, ensuring a transparent and easy to follow MPA process is key to maintaining social support for that MPA.

The Committee recommends:

Recommendation 8

That Fisheries and Oceans Canada publicize on its website, for each *Oceans Act* marine protected area process, the time frame, the decisions made at each step, the science and other considerations that went into decision making.

Paul Lansbergen recommended the consultation process be based on consensus-building where each party could find a "win-win" solution in a "reasonable" time frame.[135] However, in Halifax, Mike Kofahl from East Coast Environmental Law told the Committee that the current MPA establishment process lacks mediation and conflict resolution mechanisms conducive to consensus-building. Using Australia's Great Barrier Reef Marine Park as a "glaring example of how not to design MPAs," Dan Edwards explained:

> If you look at Australia's example, they did not develop a conflict resolution structural adjustment framework for the Great Barrier Reef until well after the process had started, and then they put money into it because they realized they had to, and the implementation side of it was very poorly done. You're much better off, as government, to put in those kinds of terms of reference up front. Doing that gives you a much better process that people can feel safe engaging in and then the shared decision-making

133 Robert Lewis-Manning, Chamber of Shipping of British Columbia, Evidence, 9 May 2017.

134 Alan Martin, Director, Strategic Initiatives, B.C. Wildlife Federation, Evidence, 13 April 2017.

135 Paul Lansbergen, President, Fisheries Council of Canada, Evidence, 30 January 2018.

> framework is much more acceptable at the end of the day. When you do that, you have to recognize that you never do take away ultimately from ministerial discretion and the decision-making of government but you do your utmost to develop consensus around the best way to build these kinds of things like MPAs.[136]

The Committee recommends:

Recommendation 9

That Fisheries and Oceans Canada, as part of the *Oceans Act* marine protected areas establishment process, consider instituting mediation and conflict resolution mechanisms conducive to consensus-building.

Don Krusel indicated that industry representatives at consultation meetings are often outnumbered by participants from other groups (e.g., Indigenous groups and environmental non-governmental organizations).[137] However, he acknowledged the importance of having all parties at joint meetings to ensure that each group has the opportunity to understand each other's perspectives. In addition, Robert Lewis-Manning recommended that other federal agencies (e.g., Transport Canada) should be involved in the process from the beginning.[138]

The issue of including all parties at the beginning of DFO's consultation process was also mentioned by Gerry Kristianson.[139] He proposed to include the commercial and recreational fishing sectors, and environmental organizations in Tier 2[140] consultations in British Columbia. Tier 2 consultations, generally, only comprise Indigenous communities and DFO. As non-Indigenous groups are only consulted after an agreement has been reached at Tier 2, Gerry Kristianson indicated that the Department is then "put in an invidious position":

> If it [the Government] wants to change the decisions it has made with First Nations, it's then seen as betraying the good faith negotiations of the Tier 2 process. On the other hand, from the point of view of those of us who were not in the room for Tier 2, we are obviously not happy if we're then told, "Well I'm sorry, we reached this agreement."

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136 Dan Edwards, Executive Director, Area A Crab Association, *Evidence*, 28 September 2017.

137 Don Krusel, President and Chief Executive Officer, Prince Rupert Port Authority, *Evidence*, 9 May 2017.

138 Robert Lewis-Manning, Chamber of Shipping of British Columbia, *Evidence*, 9 May 2017.

139 Gerry Kristianson, Chair, Sport Fishing Advisory Board, *Evidence*, 16 May 2017.

140 DFO, *Pacific Region Approach to Collaborative Management: Aboriginal Engagement in Fisheries Management*.

The Committee heard a different opinion on Tier 2 consultations from Bruce Watkinson of the Gitxaala First Nation in Prince Rupert. In his view, engaging solely with First Nations upfront is key to a successful governance of the MPA process. The Gitxaala First Nation stressed the importance of the place of First Nations in the PNCIMA process that allows for collaboration between local First Nations prior to engaging with the federal government. Bruce Watkinson also mentioned the critical role of the consensus-based Fisheries Reconciliation Table with Canada.[141] The Table establishes a nation-to-nation decision-making process between British Columbia's coastal First Nations and Canada examining a suite of conservation tools respecting traditional uses of marine resources. In his opinion, reconciliation with Indigenous peoples in marine conservation and fisheries management will only succeed when DFO engages with First Nations in joint decision-making that incorporates traditional knowledge and science, and respects Indigenous laws.

The Committee also heard support for an Indigenous-specific process on the East Coast from the Atlantic Policy Congress of First Nations Chiefs Secretariat:

> Indigenous Peoples are not simply stakeholders with the same legal interests as industry, civil society, and private land owners; Indigenous Peoples have constitutionally protected rights and interests as set out in section 35 of the Constitution Act, 1982. This must be recognized and they should be listed first. Any national advisory panel in relation to MPAs must have an Indigenous-specific process commensurate with the importance of their constitutionally protected rights and interests.[142]

The Secretariat also pointed out that Indigenous peoples are not a homogeneous group with a "single perspective" across Canada. Therefore, an effective consultation process for an area of interest should include all regional representatives. In addition, "meaningful consultations with Indigenous peoples are not 'one-and-done'. Meaningful consultation is an iterative process. Meaningful consultation involves open dialogue during all phases of legislative and policy development: before, during, and after."

On the topic of integrating knowledge from coastal communities, the Committee was reminded by Kevin McNamee from Parks Canada Agency that the marine landscape is not just a natural landscape. He added:

> This is a cultural landscape that's been a homeland to people for thousands of years, so recognize their knowledge systems—how they develop that knowledge and how they apply that knowledge—to see what kind of picture that creates of the area you're trying to protect and where that ultimately does lead to a boundary.[143]

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141 Coastal First Nations, *A First Nation Fisheries Reconciliation Table with Canada*.

142 Atlantic Policy Congress of First Nations Chiefs Secretariat, *Brief*, 16 January 2018.

143 Kevin McNamee, Director, Protected Areas Establishment Branch, Parks Canada Agency, *Evidence*, 24 October 2017.

The argument put forward by Kevin McNamee was corroborated by George Feltham, who indicated that, in addition to marine biodiversity conservation objectives, MPAs should be established with the interests and needs of coastal communities in mind.[144] In order to minimize potential negative socio-economic impacts, the MPA consultation and decision-making process should incorporate the knowledge and input from fish harvesters and local communities, including community leaders. Such knowledge includes sensitive areas and fishing patterns taking place in traditional and emerging fishing grounds. George Feltham stressed that public education and community outreach regarding the benefits of MPAs and conservation objectives are essential in fostering both their social acceptance and the community's sense of ownership of its adjacent protected area. It can also lead to increased compliance with regulations.[145]

The Committee recommends:

Recommendation 10

That, in addition to science-based decision-making, Fisheries and Oceans Canada take into consideration the strong importance of having community and stakeholder support throughout the process of establishing a marine protected area.

Recommendation 11

That consultations leading to the creation of a marine protected area be as inclusive as possible for community stakeholders, with efforts made to schedule consultations at times when the maximum number of community members and Indigenous communities can participate, backstopped by an initiative to proactively reach out to those who haven't participated in scheduled consultation events. These consultations should be a part of an ongoing dialog.

Recommendation 12

That Fisheries and Oceans Canada, Environment and Climate Change Canada and Parks Canada Agency collaborate on best community relations/consultation practices and examine alternative process models (e.g., 'consensus' versus 'democratic' (majority rule) decision-making; 'incentive' versus 'regulatory' management; goal setting targeting 'abundance' versus 'sustainability').

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144 George Feltham, Fisher, Eastport Region, Evidence, 1 February 2018.

145 George Feltham, Fisher, Eastport Region, Evidence, 1 February 2018.

Recommendation 13

That, in order for marine protected areas to be truly sustainable, the process used to create them undertake meaningful consultation with all persons holding a direct stake in the marine protected areas' resources early in the process of establishing them.

Recommendation 14

That consultation related to the establishment of marine protected areas give primary consideration to local stakeholders whose support and contribution are essential to the establishment and sustainability of a marine protected area.

3. Public Comment Periods and Proposed Regulations

With regards to the Hecate Strait/Queen Charlotte Sound Glass Sponge Reefs MPA consultation process, Christina Burridge and Jim McIsaac explained that the 2015 proposed regulations pre-published for public comment in the *Canada Gazette*, Part I, were based on recommendations produced by that MPA advisory committee, known as the Sponge Reef Advisory Committee.[146] However, public comment led to a modified version of the regulations which were published in the *Canada Gazette*, Part II, and came into force in February 2017. In their view, modifications to regulations first proposed by the advisory committee undermined its collaborative work. For its part, DFO indicated in the *Canada Gazette*, Part II:

> [I]n considering comments received during the prepublication period calling for stronger protection in the MPA, and based on science advice that was not available during the MPA consultation process from 2010–2011, the Department has since decided to further restrict fishing activities within the AMZ [adaptive management zone] and VAMZ [vertical adaptive management zone] to reflect a more precautionary approach.[147]

Gerry Kristianson mirrored concerns expressed by Christina Burridge and Jim McIsaac, and recommended that DFO establish measures ensuring that regulations proposed by consensus-based advisory bodies are not undermined by "public relations campaigns."[148] In Prince Rupert, commercial fishers met by the Committee also echoed Gerry Kristianson's view, and questioned the pertinence of their participation in DFO's consultation process.

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146 Christina Burridge, Executive Director, B.C. Seafood Alliance and Jim McIsaac, Managing Director, B.C. Commercial Fishing Caucus, *Evidence*, 11 May 2017.

147 Government of Canada, "Hecate Strait and Queen Charlotte Sound Glass Sponge Reefs Marine Protected Areas Regulations," *Canada Gazette*, Part II, 22 February 2017.

148 Gerry Kristianson, Chair, Sport Fishing Advisory Board, *Evidence*, 16 May 2017.

B. Role of Science: Ensuring Science-Based Decision-Making

Rodolphe Devillers recommended that DFO "restructure the way it integrates science advice to require a systematic scientific assessment of proposed areas and management plans before new MPAs are established."[149] He indicated that the "role of science is currently compartmentalized to specific stages of the MPA network planning [process]; resulting in MPAs that have been at some point informed by science but may not be scientifically sound at the end of the process." Although the initial identification of an AOI is based on scientific advice, Rodolphe Devillers pointed out:

> Changes to the AOI, the area of interest, boundary that resulted from stakeholder consultations have been characterized by a complete absence of any scientific confirmation that those changes would not compromise the ability of the MPA to meet its conservation objectives.

Natalie Ban also cautioned that "it is crucial to check the revised boundaries of MPAs so that the biodiversity objectives can still be met."[150] Therefore, Rodolphe Devillers suggested that a final scientific assessment of all proposed MPAs be required before they are designated. Such an assessment should be "made publicly available in a DFO science report, and [explicitly acknowledge] the trade-offs made during stakeholder consultations." In addition, he mentioned a gap in DFO's socio-economic expertise in marine conservation planning.

In Dwan Street's view, evidence-based decision-making must also take into account "not only scientific data but the storied experiences of those who have worked on the ocean and know the ecosystem: fish harvesters."[151] She added:

> In Newfoundland and Labrador, we are currently undergoing an ecosystem shift that is bringing a resurgence of species that harvesters have not relied on for decades. We must ensure that the traditional, historic fishing patterns and the knowledge that come with them are taken into account, so as to not limit future opportunities.

The Groundfish Enterprise Allocation Council and the Canadian Association of Prawn Producers agreed with Dwan Street by stating:

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149 Rodolphe Devillers, Professor, Department of Geography, Memorial University of Newfoundland, As an Individual, *Evidence*, 15 June 2017.

150 Natalie Ban, Assistant Professor, School of Environmental Studies, University of Victoria, As an Individual, *Evidence*, 11 May 2017.

151 Dwan Street, Project Coordinator, Fish, Food and Allied Workers, *Evidence*, 28 September 2017.

> Without consideration of the areas that supported economically important harvesting activities in the past, we are in danger of losing access to these areas because of a failure to consider them in our initial design of closed areas. Thus, we are likely hampering our next generation of harvesters from being able to garner a living from our fishery resources and sustaining the many rural communities they call home.[152]

Given the above testimony, the Committee recommends:

Recommendation 15

That the creation of a marine protected area be founded on clear objectives, the best available science or, in urgent situations, the application of the precautionary principle, all informed by traditional knowledge contributed by the local Indigenous communities and fishers that have traditionally operated in the area.

Recommendation 16

That marine protected areas be established with clearly defined objectives such as biodiversity targets that can be measured and assessed on an ongoing basis to determine the performance of each MPA.

Recommendation 17

That local and Indigenous knowledge be combined with available science in determining the objectives, composition, allowable activities and characteristics of a marine protected area.

Recommendation 18

That, given the potential challenges with interpretation when applying the precautionary principle, the Government of Canada recognize the precautionary principle is no substitute for science and cannot replace Canada's proven processes of consultation and scientific assessment.

C. Protection Standards: Ensuring Marine Biodiversity Benefits

While regulations are designed to support conservation objectives specific to each MPA, the Committee heard contrasting opinions regarding activities permitted within MPAs. For instance, in Tuktoyaktuk, local Hunters and Trappers Committee members (John Noksana Sr., Charles Pokiak, Lennie Emaghok, and Eileen Jacobson) expressed opposition

152 Groundfish Enterprise Allocation Council and Canadian Association of Prawn Producers, *Brief*, 2 February 2018.

to oil and gas activities as well as tourism operations within the Tarium Niryutait MPA because they were seen as threats to beluga whales. As put by local Inuvialuit harvesters, "even noise from a kayak could chase a beluga away." However, the Committee detected more openness to industrial activities taking place within the same MPA from the Inuvialuit Regional Corporation (IRC).

To provide certainty to ocean users, Linda Nowlan from the West Coast Environmental Law Association called for the establishment of minimum protection standards by:

- setting general prohibitions instead of the current case-by-case approach;
- requiring the assignment of an IUCN category to each MPA to improve MPA management; and
- making ecological integrity the primary goal for MPAs and setting timelines.[153]

Rashid Sumaila, Paul Crowley, Bill Wareham, and Susanna Fuller also argued for the establishment of minimum protection standards. In their view, these standards are required to prohibit the "most damaging" activities to marine biodiversity: oil and gas activities, undersea mining, ocean waste dumping, and "industrial" fisheries.[154] In Gaspé, the Committee also heard from the Regroupement des pêcheurs professionnels du Sud de la Gaspésie about the "destructive" impacts of bottom-trawling fisheries. According to the West Coast Environmental Law Association, the current case-by-case approach used by Canada to establish regulations in accordance with an individual MPA's conservation objectives resulted in a "lack of consistency in protection and regulatory schemes."[155]

According to Sabine Jessen from the Canadian Parks and Wilderness Society, in the absence of protection standards, every "single activity must be negotiated for each MPA, even when they may be in direct contravention of the conservation objectives for that MPA."[156] In her opinion, this leads to longer consultation processes and increased conflict between various parties.

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153 Linda Nowlan, Staff Counsel, West Coast Environmental Law Association, *Evidence*, 2 May 2017.

154 Paul Crowley, Vice-President, Arctic Program, World Wildlife Fund-Canada, *Evidence*, 8 June 2017.

155 West Coast Environmental Law, Brief entitled *Linking Science and Law: Minimum Protection Standards for Canada's Marine Protected Areas*, May 2017.

156 Sabine Jessen, National Director, Oceans Program, Canadian Parks and Wilderness Society, *Evidence*, 30 January 2018.

In addition, according to Susanna Fuller, core protection (no-take) zones should encompass 75% of the extent of each MPA.[157] The importance of no-take zones was also mentioned by Natalie Ban who indicated that "MPAs that permit varying levels of fishing and other activities are less effective at achieving biodiversity than fully protected areas."[158] At the time this report was written, 5 of the 11 *Oceans Act* MPAs had no-take zones. Phil Morlock, however, stressed that "no-take areas – being the most restrictive tool in the conservation toolbox – should only be considered when scientific evidence shows recreational fishing poses a clear threat to the sustainability of fisheries resources and after other fisheries management measures have failed."[159] George Feltham also indicated that the establishment of no-take zones should be based on a "workable" agreement with all marine users.[160]

The Committee recommends:

Recommendation 19

That minimum standards for marine protected areas be established on a case-by-case basis and tailored to the needs and interests of the local ecology, biodiversity, people and economies that depend on their resources.

Many witnesses shared the view that IUCN categories should be more formally integrated into Canada's MPA designation process. The West Coast Environment Law Association, for instance, argued that doing so would "encourage greater internal management consistency and help with international reporting obligations."[161] Gerry Kristianson explained, however, that in the case of the conservation areas in Haida Gwaii, IUCN categories were not deemed appropriate.[162] In his opinion, the Haida Gwaii situation is unique and recommended "made-in-Canada" definitions for that area's management.

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157 Susanna Fuller, Senior Marine Conservation Coordinator, Ecology Action Centre, *Evidence*, 11 April 2017.

158 Natalie Ban, Assistant Professor, School of Environmental Studies, University of Victoria, As an Individual, *Evidence*, 11 May 2017.

159 Phil Morlock, Chair of Government Affairs Committee, Canadian Sportfishing Industry Association, *Evidence*, 2 May 2017.

160 George Feltham, Fisher, Eastport Region, *Evidence*, 1 February 2018.

161 West Coast Environmental Law, Brief entitled *Linking Science and Law: Minimum Protection Standards for Canada's Marine Protected Areas*, May 2017.

162 Gerry Kristianson, Chair, Sport Fishing Advisory Board, *Evidence*, 16 May 2017.

D. Recognizing Community and Indigenous Conserved Areas

Susanna Fuller recommended that the federal government encourage and facilitate the establishment of Indigenous and community-initiated conserved areas.[163] In her view, knowledge from coastal communities can play an important role in fulfilling Canada's marine conservation targets. She mentioned that certain communities in Nova Scotia have already begun the process of initiating conservation areas through informal agreements among fisheries organizations. In her opinion, community leadership and ownership can be a key aspect in ensuring that MPAs achieve their intended benefits. In Halifax, Roger Hunka from the Maritime Aboriginal Aquatic Resources Secretariat mentioned Nova Scotia's Eastern Shore Islands Management Planning process, which allows local communities (in collaboration with the provincial government) to identify important zones to protect and to determine activities that would be compatible within these areas.

Facilitating community-initiated conserved areas can also bring benefits in terms of consultation efforts required for social acceptance. Randy Jenkins from DFO stated:

> I think it's fair to say that if you already have an area or a concern identified by the fishing industry or communities at large, and they're behind it in terms of advocating for more measures to protect the area or protect the species, then those will likely be the most successful and the easiest to deliver. That doesn't mean that others would not be; it just might mean that you need a lot more consultation to arrive at an end point if the communities or user groups are not already familiar with the plan.[164]

Dwan Street told the Committee that the Eastport MPA is one of many examples of fish harvester-driven initiatives to protect marine biodiversity. In her view, "this type of collaborative approach, one that takes into account the ecological knowledge and experience of fish harvesters and engages harvesters throughout the process, is crucial if we are to approach marine protection in a way that will benefit our ecosystem and our communities for generations."[165] George Feltham emphasized that community engagement and ownership played a critical role in ensuring the Eastport MPA's success in achieving its intended benefits.[166] Mark Carr, using the example of the "largest science-based network of MPAs in the world" along the entire 1,300-kilometre coast of California, pointed out:

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163 Susanna Fuller, Senior Marine Conservation Coordinator, Ecology Action Centre, *Evidence*, 11 April 2017.

164 Randy Jenkins, Acting Senior Director, Integrated Resource Management, DFO, *Evidence*, 6 February 2018.

165 Dwan Street, Project Coordinator, Fish, Food and Allied Workers, *Evidence*, 28 September 2017.

166 George Feltham, Fisher, Eastport Region, *Evidence*, 1 February 2018.

> In California, when MPA boundaries were considered, it was the stakeholders, not the scientists, who identified the location, the size, and the boundaries of protected areas. One of the guidelines from the Department of Fish and Wildlife was to make sure that they were easily recognizable boundaries—typically straight lines that extended offshore, preferably at areas such as headlands that were easily defined as well. Taking that into consideration so that people more easily can identify exactly when they are in or out of an MPA is a really important design criterion.[167]

The Nunavut Planning Commission informed the Committee that a Nunavut land use plan[168] is being prepared by the Commission to guide resource use and development in the territory, including the marine environment. If Inuit conserved areas identified in that plan meet the criteria for OEABCMs, the Commission argued that those areas should be counted towards the achievement of Canada's Aichi Target 11 commitments.[169] Furthermore, the Nunavut Planning Commission noted that, in the Arctic, "some unique areas are transitory and may move from year to year or season to season (e.g. polynyas), and may be non-permanent (e.g. marine ice)."[170] Therefore, the "*Oceans Act* should expressly recognize that many marine mammals in the Arctic rely on the foreshore and marine ice as habitat, meaning that to adequately protect unique areas and endangered or threatened marine species using MPAs, there must be complementary protections of the terrestrial and marine ice habitats of those species." The Commission recommended that "MPAs [designated] under the *Oceans Act* should expressly recognize that in the Arctic Ocean, water is often frozen and provides a 'unique' albeit transitory habitat. It is necessary to design MPAs that can protect unique marine ice habitats from icebreaking that do not prevent human uses at other times."

Paul Crowley pointed out the recommendations of the March 2017 report from Mary Simon, Ministerial Special Representative for the Arctic, entitled *A new Shared Arctic Leadership Model*.[171] Regarding Arctic conservation goals, the report calls for:

- a formal recognition of existing Indigenous land and marine conservation planning designations as the basis for setting and realizing a new, ambitious conservation goal;
- a legal mechanism to recognize Indigenous conserved areas;

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167 Mark Carr, Professor, Department of Ecology and Evolutionary Biology, University of California-Santa Cruz, As an Individual, *Evidence*, 13 June 2017.

168 Nunavut Planning Commission, *Draft Nunavut Land Use Plan*.

169 Jonathan Savoy, Manager of Implementation, Nunavut Planning Commission, *Evidence*, 6 June 2017.

170 Nunavut Planning Commission, *Brief*, 30 May 2017.

171 Paul Crowley, Vice-President, Arctic Program, World Wildlife Fund-Canada, *Evidence*, 8 June 2017.

- a new federal policy directive that sets out a process for the identification, funding and management of Indigenous conserved areas;
- long-term stable funding to support locally driven terrestrial guardians and Arctic coastal and marine stewardship programs;
- formally recognizing Indigenous conserved areas as a valid conservation designation under "other effective area-based conservation measures (OEABCMs)"; and
- the creation of an Inuit-led management plan and monitoring process for the entire North Water Polynya (Pikialasorsuaq) and recognizing the region as an Indigenous Protected Area.[172]

In Paul Crowley's opinion, recognizing Indigenous-conserved areas would secure economic benefits for Arctic communities as monitoring, research, and enforcement activities conducted in those areas will enhance local employment.[173] Furthermore, to provide enhanced legal protection for Indigenous subsistence fisheries, Jonathan Savoy recommended that a "distinct reference to Indigenous or Inuit subsistence fisheries [be added] in the *Oceans Act*, paragraph 35(1)(a) as distinct from commercial and non-commercial fisheries."[174] The Nunavut Planning Commission also added that the "*Oceans Act* should enshrine reconciliation with Canada's Indigenous Peoples, in a manner consistent with its full, unqualified support of the United Nations Declaration on the Rights of Indigenous Peoples, rather than rely on mandate letters which may change before MPAs can be established."[175]

The Committee recommends:

Recommendation 20

That areas covered by "other effective area-based conservation measures" be included in consideration when determining total areas of protection.

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172 Indigenous and Northern Affairs Canada, *A new Shared Arctic Leadership Model*, March 2017.

173 Paul Crowley, Vice-President, Arctic Program, World Wildlife Fund-Canada, *Evidence*, 8 June 2017.

174 Jonathan Savoy, Manager of Implementation, Nunavut Planning Commission, *Evidence*, 6 June 2017.

175 Nunavut Planning Commission, *Brief*, 30 May 2017.

E. An Integrated Process: Marine Planning

MPAs have become an increasingly popular management tool for conserving marine biodiversity globally. However, Dan Edwards indicated that the current MPA strategy is being "treated as a one-off process, not integrated in a meaningful way within an overarching integrated ecosystem-based governance structure. It is, in fact, ignoring the existing combined governance bodies that were set up to manage bioregions."[176]

1. Planning Frameworks and Partnerships

Alan Martin emphasized the importance of ensuring the right tool is utilized to achieve the desired conservation outcome.[177] He informed the Committee that the northern shelf area of British Columbia had been the focus of a coordinated federal-provincial-First Nation marine planning effort. The resulting PNCIMA framework provides a high-level direction on the planning and management of marine activities and resources, including the establishment of an MPA network. The Northern Shelf MPA network planning is expected to be finalized in March 2019. In Natalie Ban's opinion, the planning process in that region represents a "huge opportunity" to accelerate Canada's MPA establishment process.[178]

Despite the ongoing marine planning efforts in the Northern Shelf of British Columbia, Alan Martin indicated that the recent establishment of the Hecate Strait/Queen Charlotte Sound Glass Sponge Reefs MPA was carried out in isolation from the PNCIMA framework.[179] In his view, the establishment of that MPA was driven by percentage targets and, by not being integrated into PNCIMA, potentially lacked "sufficient scientific, community, and financial support" to be effectively managed in the long term.

In Prince Rupert, the Committee also heard from the Metlakatla First Nation (Chief Harold Leighton, Ross Wilson, William Beynon, Erin Mutrie, Steve Lehnert, Dave Doolan, and Shaun Thomas) that the Marine Plan Partnership for the North Pacific Coast (MaPP)[180] process is a good marine planning model for DFO to follow. MaPP enables partnerships on an equal basis between First Nations and the Province of British Columbia. However, the Metlakatla First Nation expressed disappointment regarding the absence of the federal government in the MaPP process.

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176 Dan Edwards, Executive Director, Area A Crab Association, *Evidence*, 28 September 2017.

177 Alan Martin, Director, Strategic Initiatives, B.C. Wildlife Federation, *Evidence*, 13 April 2017.

178 Natalie Ban, Assistant Professor, School of Environmental Studies, University of Victoria, As an Individual, *Evidence*, 11 May 2017.

179 Alan Martin, Director, Strategic Initiatives, B.C. Wildlife Federation, *Evidence*, 13 April 2017.

180 *Marine Plan Partnership for the North Pacific Coast*.

Given the numerous environmental assessment reviews occurring in the Prince Rupert area, the Gitxaala First Nation and the Metlakatla First Nation representatives indicated that they and other neighbouring First Nations have developed extensive traditional knowledge and scientific databases. The information accumulated allowed local First Nations to elaborate marine use plans and identify ecologically significant sites that require greater protection. In their view, MPA network planning in the region should integrate the marine planning priorities and data of local First Nations. For the Metlakatla First Nation, there is also a need to combine coastal land and marine planning processes as they are interconnected.

2. Integrated Marine Planning Processes

The importance of integrating MPAs into an overarching marine planning process was also mentioned by Jean Lanteigne from FRAPP and Stephen Woodley. Stephen Woodley indicated that "protected areas need to be put in the right places for conservation, so that they actually do protect nature, and not simply put it in places where they avoid a conflict with fishing."[181] Mark Carr concurred with Stephen Woodley by indicating that networks of MPAs embedded along coastlines provide "greater conservation value because they occur where people are using the ocean, and they foster a higher likelihood of contributing to the sustainability of coastal fisheries."[182] Robert Lewis-Manning also emphasized that marine spatial planning is especially important in areas of high human activity, such as near ports and high traffic shipping lanes.[183] He stated:

> A lack of integrated planning and subsequent management of areas with high human activity could result in a missed opportunity to improve a specific regional ecosystem, provide predictability for regulated human activity, such as commercial transportation, and find innovative strategies to manage such development.

Therefore, Robert Lewis-Manning recommended that the *Oceans Act* be amended "to include an additional reason for establishing an MPA, namely for the conservation, protection and sustainable development of coastal areas with high human activity, including marine transportation to support domestic and international trade." He explained that by increasing protection in areas of high human activity, these would "receive appropriate scientific examination and resources, including benchmarking for cumulative impacts."

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181 Stephen Woodley, Vice-Chair of Science and Biodiversity, World Commission on Protected Areas, International Union for Conservation of Nature, *Evidence*, 2 May 2017.

182 Mark Carr, Professor, Department of Ecology and Evolutionary Biology, University of California-Santa Cruz, As an Individual, *Evidence*, 13 June 2017.

183 Robert Lewis-Manning, Chamber of Shipping of British Columbia, *Evidence*, 9 May 2017.

For Brian Clark, the current "lack of a clear process for integrated coastal planning leaves proponents to develop strategies in an information vacuum. Where are the no go zones? What are the thresholds for impacts?"[184] Similarly to Robert Lewis-Manning, he called for "specific plans for coastal areas of high industrial activity." In his opinion, MPAs could be "incorporated as part of a regional sustainability plan that would support an effective environmental assessment process."

Furthermore, Don Krusel and Ken Veldman of the Prince Rupert Port Authority recommended the identification of designated shipping lanes as a feature to take into account at the start of the marine spatial planning process. Such an exercise would not only provide greater certainty to project proponents in the region but would also increase marine safety by spatially concentrating navigation aid resources and marine traffic. Don Krusel argued that, in case of changes in marine species movement, there would be flexibility in shifting traffic within designated shipping lanes. However, Bruce Watkinson and Caroline Butler from the Gitxaala First Nation indicated that designing MPAs around designated shipping lanes is not the right approach. In their view, human activities should instead be planned in consideration of the conservation objectives of the MPA.

The Committee recommends:

Recommendation 21

That, when possible, marine protected areas be situated and designed to complement other marine protected areas, on-shore protected areas and inshore conservation areas, to create a network that promotes biodiversity and habitat protection.

F. Enforcement and Management

Alan Martin, Michel Richard, and Phil Morlock indicated to Committee members that monitoring and enforcement are essential components to maintaining the social acceptance of MPAs. Alan Martin suggested that "social support for the system would rapidly erode if the rules weren't being followed."[185]

Stephen Woodley mentioned a 2014 study[186] which concluded that "many MPAs can't be ecologically distinguished from fished areas. There's simply no difference because

184 Brian Clark, Environmental Advisor, Pacific NorthWest LNG, *Evidence*, 6 June 2017.

185 Alan Martin, Director, Strategic Initiatives, B.C. Wildlife Federation, *Evidence*, 13 April 2017.

186 G. J. Edgar et al., "Global conservation outcomes depend on marine protected areas with five key features," *Nature*, Vol. 506, 2014, pp. 216-220.

they're MPAs in name only."[187] In fact, "79% of the global sample of protected areas weren't meeting thresholds for basic management. They didn't have enough staff in place. They didn't have funding. They didn't have monitoring in place, etc. Staffing and funding gaps were the biggest predictors of conservation outcomes." Despite these management shortcomings, Stephen Woodley noted that 71% of the assessed MPAs still secured "substantial positive outcomes." The example of the United Kingdom's MPAs also illustrated the critical role of enforcement in achieving intended benefits. Since the Marine and Coastal Access Act was adopted in 2009, the MPA coverage in the United Kingdom grew from 6% to over 20% of the country's waters. However, Callum Roberts spoke critically of the United Kingdom's MPA network, calling it "the world's most elaborate network of paper parks" as it is virtually impossible to enforce.[188]

Sean Cox pointed out that, without proper monitoring and enforcement, the high biomass inside MPAs could create incentives for illegal fishing of high value species, such as abalone, sablefish, and halibut. Natalie Ban also noted that, on the Pacific Coast, many recreational fishers admit to illegally fishing in Rockfish Conservation Areas (RCAs) as a result of their lack of knowledge about these protected areas and their boundaries.[189] Enforcement, outreach, and education were proposed as being essential to ensuring that regulations are adhered to and enforced. It appears to the Committee, however, that illegal fishing within protected areas by the commercial fleet does not represent a great concern. Natalie Ban and Bruce Turris indicated that commercial fisheries' onboard observer coverage and vessel monitoring systems ensure compliance to regulations.[190] This point of view was shared by the Gitxaala First Nation for which the lack of accountability in recreational fisheries in British Columbia was a major concern.[191] For the Gitxaala First Nation, well enforced and managed MPAs represent a mechanism to reduce recreational fishing impacts in Gitxaala territory.

DFO's capacity to ensure effective enforcement of regulations in MPAs was also an issue raised by Inuvialuit communities in Inuvik, Paulatuk, and Tuktoyaktuk. The Committee was told that the closest DFO enforcement office is located in Yellowknife,

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187 Stephen Woodley, Vice-Chair of Science and Biodiversity, World Commission on Protected Areas, International Union for Conservation of Nature, *Evidence*, 2 May 2017.

188 Callum Roberts, Professor of Marine Conservation, Environment Department, University of York, As an Individual, *Evidence*, 18 May 2017.

189 Natalie Ban, Assistant Professor, School of Environmental Studies, University of Victoria, As an Individual, *Evidence*, 11 May 2017.

190 Bruce Turris, Executive Manager, Canadian Groundfish Research and Conservation Society, BC Seafood Alliance, *Evidence*, 11 May 2017.

191 Gitxaala First Nation, *Brief*, 24 November 2017.

thousands of kilometres away. The Inuvik and Tuktoyaktuk communities expressed concerns regarding increased threats to the local marine resources with the opening of the Inuvik to Tuktoyaktuk Highway. In their opinion, this highway will increase access to the region to non-local fishers resulting in additional fishing pressure. Therefore, Gerald Inglangasuk of the Fisheries Joint Management Committee called for increased enforcement capacity in the Beaufort Sea region and proposed an Indigenous-led guardians program similar to the Coastal Guardian Watchmen Network off the coast of British Columbia.[192] In his view, community-based monitoring and enforcement will lead to better MPA management.

According to Connie Blakeston from DFO Inuvik, the low enforcement presence in the Western Arctic may be due to the assessed "low risk" of illegal activities in the region. Given the limited capacity of the Department, it was decided to invest in a greater enforcement contingent in more critical areas. Duane Smith told the Committee, however, that Inuvialuit communities would be reluctant to establish new MPAs in the region without proper enforcement capacity and funding for monitoring and research in existing MPAs. The Paulatuk Hunters and Trappers Committee also stressed the need for the local community to be involved in data collection and processing as part of the MPA's management plans.

In Prince Rupert, Committee members heard from Bill Shepert of the Lax Kw'alaams Band that the past relationship between DFO Conservation Officers and Band members was "unpleasant," therefore hindering the effectiveness of current local conservation initiatives. For his part, Bruce Watkinson from the Gitxaala First Nation proposed joint patrols with guardians from First Nations as a solution to the limited DFO enforcement capacity in the region. According to commercial fishers met by the Committee in Prince Rupert, the lack of resources for science and enforcement at DFO resulted in the Department adopting an "overly cautious" stance which harms the commercial fishing industry. Pacific Wild pointed out:

> The Coastal Guardian Watchmen programs are highly active in monitoring human activity on the water as well as biological health of many species and ecosystems. They are the first responders to whale entanglements, fuel spills, and many other incidents while also carrying out regular monitoring and enforcing Indigenous-led closures. This program will need more substantial support in order to deliver effective education, monitoring, compliance, and enforcement in MPAs. Our local DFO enforcement staff generally serves a two-year term and then move on to a preferred posting in a less remote area, so their knowledge of local ecology, culture, and conservation issues is very limited by comparison.[193]

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192 Coastal First Nations, *Guardian Watchmen Programs Overview*.

193 Pacific Wild, *Brief*, 24 January 2018.

On the East Coast, Maria Recchia from the Fundy North Fishermen's Association added that, given the current resource deficiencies, enforcement of conservation regulations within the Fundy North area has been problematic.[194] The increase in enforcement capacity that will be required once new areas are protected is therefore of concern. The Committee noted the desire expressed by numerous communities and fish harvester associations for enhanced collaboration with DFO to conduct enforcement activities and perform citizen science while out fishing. Chief Manon Jeannotte from La Nation Micmac de Gespeg, for instance, stressed the importance of traditional knowledge and community involvement in MPA monitoring. The Cape Breton Fish Harvesters Association proposed to leverage the recently established Atlantic Fisheries Fund[195] for coastal communities' ecosystem monitoring activities and assessing the effectiveness of established MPAs.

In order to enhance DFO's enforcement capacity, Kim Juniper from Ocean Networks Canada proposed increased collaboration between DFO and academia. He indicated:

> My experience in working with DFO on monitoring of the Endeavour MPA has been really rewarding, but it has also made me aware that DFO does not have the capacity to monitor our existing MPA network on a regular basis without help from academia. We've had a very successful partnership, but this will need to continue as we go forward.
>
> This is particularly important for remote deep-sea MPAs, where we essentially require robotic submersibles to survey and to collect samples. In many ways, much of the biodiversity we're trying to protect with these MPAs lies on the sea floor itself, not in the water column, and this is, in many ways, in deep water sites, the most inaccessible.[196]

Therefore, the Committee recommends:

Recommendation 22

That marine protected areas be operated on an adaptive management framework, with a strong ongoing role in data gathering and compliance monitoring for Indigenous communities and fishers in the surrounding areas.

Recommendation 23

That, recognizing the essential role of regulatory enforcement to a marine protected area's success, the enforcement needs of a marine protected area be paired with a congruent and sustained funding plan to sustain the required enforcement personnel and resources.

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194 Maria Recchia, Executive Director, Fundy North Fishermen's Association, *Evidence*, 23 November 2017.

195 DFO, *Atlantic Fisheries Fund*.

196 Kim Juniper, Chief Scientist, Ocean Networks Canada, *Evidence*, 24 October 2017.

The Paulatuk community, and Maya March, Park Manager of the Tuktut Nogait National Park, pointed to Parks Canada Agency's co-operative management as a good model for DFO to advance its marine conservation strategy. Parks Canada Agency and the local management board foster consensus and ensure the incorporation of both traditional and scientific knowledge into the national park's management decisions. Maya March stressed that, on the co-management board, the community of Paulatuk has an equal say with Parks Canada Agency on the management of the park. Support for this model was also shared by Eli Enns from the Indigenous Peoples' and Community Conserved Territories and Areas Consortium.[197] He mentioned that Parks Canada Agency moved beyond the "outdated" language of consultation and engagement and put in place real partnerships with Indigenous peoples. For instance, the Agency has established Indigenous advisory circles that guide the establishment and management of national parks. Eli Enns also noted the importance of changing the MPA process narrative with Indigenous communities from "I will consult you and I will accommodate you" to "I will work with you in partnership, and I will hold off until we're at a place in our relationship where I can have your consent."

Rob Prosper described Parks Canada Agency's co-operative management boards as follows:

> [T]hey seek to establish a collaborative relationship; land claim agreements make the establishment of such boards mandatory; indigenous organizations nominate their own representatives; the government provides financial and secretariat support; the boards increasingly work on a consensus basis, in that disputes are worked out by the board; and, each plays an important role in the development of a management plan.[198]

In Halifax, Roger Hunka also stressed that an effective MPA management process requires the full participation of coastal communities. Such a process should also be carried out in collaboration with existing aquatic resource and ocean management bodies in order to achieve the intended benefits of MPAs. Roger Hunka pointed out that these bodies have been established through DFO's Aboriginal Aquatic Resource and Oceans Management (AAROM) Program[199] to assist Indigenous groups to participate in advisory and decision-making processes used for aquatic resource and oceans management. The Atlantic Policy Congress of First Nations Chiefs Secretariat added that

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197 Eli Enns, Regional Coordinator, North America, Indigenous Peoples' and Community Conserved Territories and Areas Consortium, *Evidence*, 6 June 2017.

198 Rob Prosper, Vice-President, Protected Areas Establishment and Conservation, Parks Canada Agency, *Evidence*, 24 October 2017.

199 DFO, *Aboriginal Aquatic Resource and Oceans Management Program*.

objectives of the AAROM program should be expanded to ensure support for the involvement of Indigenous peoples at all stages of the MPA process.[200]

The Committee recommends:

Recommendation 24

That the Government of Canada expand the cooperative work of Parks Canada Agency, Fisheries and Oceans Canada and other departments to share best proven practices for establishing marine protected areas in Canada's Northwest.

CONCLUSION

In the Committee's view, marine biodiversity conservation is both an environmental and socio-economic priority. Effective MPAs are essential and precautionary tools in Canada's overall ocean management strategy. In its 2017 reports on Atlantic salmon and the Newfoundland and Labrador northern cod fishery, the Committee unanimously agreed that the emphasis must be placed on the precautionary approach in ocean management to ensure healthy oceans and sustainable fisheries now and into the future.[201] The Committee is encouraged by the progress made to date by Canada in achieving its marine conservation targets. However, the Committee believes that the process being used by DFO to identify and establish *Oceans Act* MPAs can be enhanced to ensure that MPAs are effective and achieve their intended benefits.

The Committee notes that access to living marine resources is important for the sustainability of Indigenous and coastal communities. In the Committee's opinion, such access should be transparently considered by DFO as a central element in its decision-making processes relative to MPAs. Unfortunately, to what extent MPAs affect the socio-economics of coastal communities that rely on the oceans for their livelihoods was a question that was not clearly answered during the course of this study. Testimony submitted to the Committee, however, showed that failing to incorporate social, economic and cultural considerations into the MPA establishment process can lead to significant conflict, loss of trust, resistance, and in some cases, the creation of MPAs that may not be as effective as they could be. Therefore, including Indigenous and coastal communities in decision-making processes that impact their access to adjacent marine spaces is imperative.

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200 Atlantic Policy Congress of First Nations Chiefs Secretariat, Brief, 16 January 2018.

201 House of Commons, Standing Committee on Fisheries and Oceans, *Newfoundland and Labrador's Northern Cod Fishery: Charting a New Sustainable Future*, March 2017, p. 22. Also: House of Commons, Standing Committee on Fisheries and Oceans, *Wild Atlantic Salmon in Eastern Canada*, January 2017, p. 28.

Furthermore, the Committee believes that, in addition to sound scientific information, ocean management decision-making must include more community and Indigenous knowledge and values. The Committee is convinced that when local communities are included in the planning and management of the marine environment, they are more likely to support sustainable management practices and contribute to the success of conservation objectives. Such inclusion will also help foster ownership of and cultural connections to these areas, and encourage local monitoring and stewardship, which in turn will help the MPAs achieve their conservation objectives.

GLOSSARY

Area of Interest (AOI): AOIs are identified by Fisheries and Oceans Canada as areas that contain ecologically sensitive habitat or species that need extra protection.

International Union for Conservation of Nature (IUCN): The IUCN, created in 1948, "is a membership Union uniquely composed of both government and civil society organisations. It provides public, private and non-governmental organisations with the knowledge and tools that enable human progress, economic development and nature conservation to take place together."

Other Effective Area-Based Conservation Measures (OEABCM): The concept of OEABCMs was first introduced in 2010 at the 10th meeting of the Conference of the Parties to the United Nations *Convention on Biological Diversity*. OEABCMs are referred to by Fisheries and Oceans Canada as "marine refuges" and include certain areas closed to fishing activities such as the Corsair and Georges Canyons Conservation Area. According to DFO's *Operational Guidance for Identifying 'Other Effective Area-Based Conservation Measures' in Canada's Marine Environment*, to be recognized as an OEABCM, a conservation area must meet five criteria, including being intended for the long term. If a conservation area qualifies as an OEABCM, it can then contribute to Canada's achievement of marine conservation Aichi Target 11 under the United Nations *Convention on Biological Diversity*.

APPENDIX A
LIST OF WITNESSES

The *Oceans Act*'s Marine Protected Areas

Organizations and Individuals	Date	Meeting
Department of Fisheries and Oceans	2017/04/04	54
Annette Daley, Director, Oceans Management Maritimes Region		
Alejandro DeMaio-Sukic, Manager Economic Analysis		
Robert Elliott, Director General Economic Analysis and Statistics		
Jeff MacDonald, Director General Oceans and Fisheries Policy		
Philippe Morel, Acting Senior Assistant Deputy Minister Ecosystems and Fisheries Management		
As an individual	2017/04/11	56
Jordan Nickerson, Fish harvester		
David Suzuki Foundation		
Bill Wareham, Science Projects Manager Western Region		
Ecology Action Centre		
Susanna Fuller, Senior Marine Conservation Coordinator		
Gulf of Nova Scotia Fleet Planning Board		
Leonard LeBlanc, Managing Director		
Andrea MacInnis, Science and Communications Coordinator		
Prince Edward Island Fishermen's Association		
Robert Jenkins, President		
Ian MacPherson, Executive Director		
As an individual	2017/04/13	57
Daniel Pauly, Principal Investigator Sea Around Us, University of British Columbia		

Organizations and Individuals	Date	Meeting
BC Wildlife Federation	2017/04/13	57
Alan Martin, Director Strategic Initiatives		
International Union for Conservation of Nature		
Dan Laffoley, Marine Vice-Chair World Commission on Protected Areas		
Maritime Fishermen's Union		
Michel Richard, Union Staff Member		
As an individual	2017/05/02	58
Sean Cox, Associate Professor and Director School of Resource and Environmental Management, Simon Fraser University		
Canadian Sportfishing Industry Association		
Angela Darraugh, Administrator		
Phil Morlock, Chair of Government Affairs Committee		
International Union for Conservation of Nature		
Stephen Woodley, Vice-Chair of Science and Biodiversity World Commission on Protected Areas		
West Coast Environmental Law Association		
Linda Nowlan, Staff Counsel		
Chamber of Shipping of British Columbia	2017/05/09	60
Robert Lewis-Manning, President		
Prince Rupert Port Authority		
Don Krusel, President and Chief Executive Officer		
As an individual	2017/05/11	61
Natalie Ban, Assistant Professor School of Environmental Studies, University of Victoria		
BC Commercial Fishing Caucus		
Jim McIsaac, Managing Director		
BC Seafood Alliance		
Christina Burridge, Executive Director		

Organizations and Individuals	Date	Meeting
BC Seafood Alliance	2017/05/11	61
Bruce Turris, Executive Manager Canadian Groundfish Research and Conservation Society		
Sport Fishing Institute of British Columbia	2017/05/16	62
Owen Bird, Executive Director		
Gerry Kristianson, Chair Sport Fishing Advisory Board		
As individuals	2017/05/18	63
Isabelle Côté, Professor, Marine Ecology Simon Fraser University		
Callum Roberts, Professor, Marine Conservation Environment Department, University of York		
Boris Worm, Professor Biology, Dalhousie University		
Indigenous Peoples' and Community Conserved Territories and Areas Consortium	2017/06/06	64
Eli Enns, Regional Coordinator North America		
Nunavut Planning Commission		
Sharon Ehaloak, Executive Director		
Jonathan Savoy, Manager of Implementation		
Pacific NorthWest LNG		
Brian Clark, Environmental Advisor, Registered Professional Biologist		
Vancouver Fraser Port Authority		
Chris Wellstood, Director, Marine Operations and Security Harbour Master		
As an individual	2017/06/08	65
Sally Leys, Professor Department of Biological Sciences, University of Alberta		
Rashid Sumaila, Professor Fisheries Economics Research Unit, Institute for the Oceans and Fisheries, University of British Columbia		

Organizations and Individuals	Date	Meeting
World Wildlife Fund-Canada	2017/06/08	65
Paul Crowley, Vice-President Arctic Program		
Sigrid Kuehnemund, Lead Specialist Oceans Program		
As an individual	2017/06/13	66
Mark Carr, Professor Department of Ecology and Evolutionary Biology, University of California, Santa Cruz		
Woodfibre LNG Ltd		
Byng Giraud, Vice-President Corporate Affairs and Country Manager - Canada		
As an individual	2017/06/15	67
Rodolphe Devillers, Professor Department of Geography, Memorial University of Newfoundland		
Trevor Ward, Adjunct Professor University of Technology Sydney		
Pacific Halibut Management Association of British Columbia		
Chris Sporer, Executive Manager		
Cruise Lines International Association	2017/09/26	69
Donna Spalding, Director Administration		
Pacific Pilotage Authority		
Kevin Obermeyer, Chief Executive Officer		
Area A Crab Association	2017/09/28	70
Dan Edwards, Executive Director		
BC Shellfish Growers' Association		
Todd Russell, Board Member		
Canadian Association of Petroleum Producers		
Paul Barnes, Director Atlantic Canada and Arctic		

Organizations and Individuals	Date	Meeting
Fish, Food and Allied Workers	2017/09/28	70
Dwan Street, Projects Coordinator		
Ocean Networks Canada	2017/10/24	71
Kim Juniper, Chief Scientist		
Parks Canada Agency		
Kevin McNamee, Director Protected Areas Establishment Branch		
Rob Prosper, Vice-President Protected Areas Establishment and Conservation		
As an individual	2018/01/30	82
Larry McKinney, Executive Director Harte Research Institute for Gulf of Mexico Studies, Texas A&M University-Corpus Christi		
Canadian Parks and Wilderness Society		
Sabine Jessen, National Director Oceans Program		
Fisheries Council of Canada	2018/01/30	82
Paul Lansbergen, President		
As an individual	2018/02/01	83
George Feltham, Fisherman Eastport Region		
Department of Fisheries and Oceans		
Christie Chute, Manager Marine Conservation Programs		
Brett Gilchrist, Acting Assistant Director Fisheries National Programs		
Randy Jenkins, Acting Senior Director Integrated Resource Management		
Robert Lambert, Director Oceans Management, Newfoundland and Labrador Region		
Robert Lamirande, Director General Indigenous Affairs and Reconciliation		

Organizations and Individuals	Date	Meeting
Department of Fisheries and Oceans	2018/02/06	84
Andrew Thomson, Regional Director Fisheries Management		
Christie Chute, Manager Marine Conservation Programs		
Brett Gilchrist, Acting Assistant Director Fisheries National Programs		
Randy Jenkins, Acting Senior Director Integrated Resource Management		
Jeff MacDonald, Director General Oceans and Fisheries Policy		
Philippe Morel, Assistant Deputy Minister Aquatic Ecosystems Sector		

Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act

Motion adopted by the Committee: That, in relation to the study of The *Oceans Act*'s Marine Protected Areas, members of the Committee be able to refer to and to utilize any and all testimony heard and briefs received during the Committee's consideration of Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act.

Organizations and Individuals	Date	Meeting
Terry Beech, M.P., Burnaby North—Seymour	2017/10/26	72
Department of Fisheries and Oceans		
Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard		
Jeff MacDonald, Director General Oceans and Fisheries Policy		
Philippe Morel, Assistant Deputy Minister Aquatic Ecosystems Sector		
Kevin Stringer, Associate Deputy Minister		

Organizations and Individuals	Date	Meeting
Department of Fisheries and Oceans	2017/11/02	74
Jeff MacDonald, Director General Oceans and Fisheries Policy		
Philippe Morel, Assistant Deputy Minister Aquatic Ecosystems Sector		
Kevin Stringer, Associate Deputy Minister		
P.E.I. Shellfish Association	2017/11/07	75
Kenneth Arsenault, President		
Prince Edward Island Fishermen's Association		
Melanie Giffin, Quality and Program Industry Coordinator		
Ian MacPherson, Executive Director		
Chamber of Shipping	2017/11/09	76
Robert Lewis-Manning, President		
Ecology Action Centre		
Susanna Fuller, Senior Marine Conservation Coordinator		
As an individual	2017/11/21	77
Nikki Macdonald, Ph.D. Candidate University of Victoria		
David Suzuki Foundation		
Bill Wareham, Science Projects Manager Western Region		
Lax Kw'alaams Band		
John Helin, Mayor		
World Wildlife Fund-Canada		
Mark Brooks, Arctic Oil and Gas Specialist		
Paul Crowley, Vice-President Arctic Program		
Aquaculture Association of Nova Scotia	2017/11/23	78
Tom Smith, Executive Director		

Organizations and Individuals	Date	Meeting
Fundy North Fishermen's Association	2017/11/23	78
Lois Mitchell, Designated Board Representative		
Maria Recchia, Executive Director		
International Union for Conservation of Nature		
Stephen Woodley, Vice-Chair of Science and Biodiversity World Commission on Protected Areas		
West Coast Environmental Law Association		
Linda Nowlan, Staff Counsel		
BC Seafood Alliance	2017/11/27	79
Christina Burridge, Executive Director		
Coastal First Nations Great Bear Initiative		
Paul Kariya, Senior Policy Advisor		
Government of the Northwest Territories		
Joe Dragon, Deputy Minister Environment and Natural Resources		
Hon. Robert C. McLeod, Minister of Environment and Natural Resources		
As an individual	2017/11/30	80
Natalie Ban, Associate Professor School of Environmental Studies, University of Victoria		
Rodolphe Devillers, Professor Department of Geography, Memorial University of Newfoundland		
Boris Worm, Professor Biology, Dalhousie University		
Council of the Haida Nation		
Peter Lantin, President		
Heiltsuk Tribal Council		
Marilyn Slett, Chief Councillor		

Organizations and Individuals	Date	Meeting
Department of Fisheries and Oceans	2017/12/07	81
Darren Goetze, Director General Conservation and Protection		
Jeff MacDonald, Director General Oceans Management		
Terence Hubbard, Director General Petroleum Resources Branch, Energy Sector		
Candace Newman, Senior Policy Advisor		

APPENDIX B
LIST OF BRIEFS

The *Oceans Act*'s Marine Protected Areas

Organizations and Individuals

Archambault, Philippe

Association of Fish and Wildlife Agencies

Atlantic Policy Congress of First Nations Chiefs Secretariat

Ban, Natalie

Baum, Julia

Boone and Crockett Club

Canadian Association of Prawn Producers

Canadian Parks and Wilderness Society

Canadian Sportfishing Industry Association

Côté, Isabelle

Dearden, Philip

Devillers, Rodolphe

Dulvy, Nick

Edinger, Evan

Fisheries Council of Canada

Fortin, Marie-Josée

Organizations and Individuals

Gitxaala Nation

Groundfish Enterprise Allocation Council

Lausche, Barbara

Leys, Sally

Lotze, Heike

Maritime Aboriginal Peoples Council

McKinney, Larry

Metaxas, Anna

Nunavut Planning Commission

Otto, Sarah

Pacific Wild

Pauly, Daniel

West Coast Environmental Law Association

Worm, Boris

Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act

Motion adopted by the Committee: That, in relation to the study of The *Oceans Act*'s Marine Protected Areas, members of the Committee be able to refer to and to utilize any and all testimony heard and briefs received during the Committee's consideration of Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act.

Organizations and Individuals

Ban, Natalie

Canadian Association of Prawn Producers

Chamber of Shipping

Council of the Haida Nation

Ecology Action Centre

Heiltsuk Tribal Council

International Union for Conservation of Nature

Inuvialuit Regional Corporation

Lax Kw'alaams Band

Northern Coalition

Nunavut Tunngavik Inc.

West Coast Environmental Law Association

World Wildlife Fund-Canada

APPENDIX C
TRAVEL TO CANADA – WEST COAST
From May 28 to June 2, 2017

Organizations and Individuals	Date	Location
Inuvialuit Game Council	29/05/2017	Inuvik, Northwest Territories
Patrick Gruben		
Joint Secretariat – Inuvialuit Settlement Region		
Mike Harlow		
Inuvialuit Regional Corporation		
Kate Darling		
Duane Smith		
Inuvik Community Corporation		
Gerald Inglangasuk		
Edgar Maring		
Rory Voudrach		
Fisheries Joint Management Committee		
Kristin Hynes		
Gerald Inglangasuk		
Emily Way-Nee		
Brian Zytaruk		
Department of Fisheries and Oceans	30/05/2017	Paulatuk, Northwest Territories
Darcy McNicholl		
Parks Canada Agency		
Maya March		
As individuals		
Noel Green		
Jody Illisiak		
Joe Illisiak		
Diane Ruben		

Organizations and Individuals	Date	Location
As individuals	30/05/2017	Paulatuk, Northwest Territories
Lawrence Ruben		
Ray Ruben		
As individuals	30/05/2017	Tuktoyaktuk, Northwest Territories
Lennie Emaghok		
Eileen Jacobson		
John Noksana Sr.		
Charles Pokiak		
Department of Fisheries and Oceans	31/05/2017	Inuvik, Northwest Territories
Connie Blakeston		
Ellen Lea		
As individuals	31/05/2017	Prince Rupert, British Columbia
Robert Hauknes		
John Turpin		
Keri Weick		
Gitxaala Nation	1/06/2017	Prince Rupert, British Columbia
Caroline Butler		
Bruce Watkinson		
Lax Kw'alaams Band		
Carolann Brewer		
Adam Kantakis		
Bill Shepert		
Metlakatla First Nation		
Chief Harold Leighton		
William Beynon		
Dave Doolan		
Steve Lehnert		
Erin Mutrie		
Shaun Thomas		
Ross Wilson		

Organizations and Individuals	Date	Location
Prince Rupert Port Authority	1/06/2017	Prince Rupert, British Columbia
Don Krusel		
Ken Veldman		
As individuals		
Rick Haugan		
Robert Hauknes		
Gary Krause		
Graeme Malcolm		

APPENDIX D
TRAVEL TO CANADA – EAST COAST
From October 16 to 20, 2017

Organizations and Individuals	Date	Location
East Coast Environmental Law	16/10/2017	Halifax, Nova Scotia
Mike Kofahl		
Ecology Action Center		
Travis Aten		
Bedford Institute of Oceanography		
Alain Vézina		
Annette Daley		
Doug Wentzell		
Mary-Ellen Valkenier		
Maxine Westhead		
Gulf Nova Scotia Fleet Planning Board	17/10/2017	Sydney, Nova Scotia
Andrea McGinnis		
Leonard Leblanc		
Area 19 Snow Crab Fishermen's Association		
Basil Maclean		
Steven Chiasson		
Tommy Campbell		
Cape Breton Fish Harvesters Association	18/10/2017	Sydney, Nova Scotia
David Ferguson		
Frank (Glen) Tredwell		
Ray Sherwood		
Stewart MacPherson		
Veronika Brzeski		

Organizations and Individuals	Date	Location
Regroupement des pêcheurs professionnels du Sud de la Gaspésie Joel Berthelot Oneil Cloutier	19/10/2017	Gaspé, Québec
La Nation Micmac de Gespeg Chief Manon Jeannotte Emmanuel Sandt-Duguay Johanne Basque		
Association des crabiers acadiens Donald Haché Robert Haché	19/10/2017	Bathurst, New Brunswick
Fédération régionale acadienne des pêcheurs professionnels Jean Lanteigne Lévi Noël Michel Légère		

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 54, 56 to 58, 60 to 67, 69 to 71, 82 to 85, 88, 92, 94, 101 and 103) is tabled.

Respectfully submitted,

Bernadette Jordan
Chair

HEALTHY OCEANS, VIBRANT COASTAL COMMUNITIES: STRENGTHENING THE OCEANS ACT MARINE PROTECTED AREAS' ESTABLISHMENT PROCESS
Supplementary Report from the Conservative Party of Canada

In 2010, the Conservative government committed Canada to the Aichi Targets as part of Canada's participation in the Convention on Biological Diversity. An important component of the Aichi Targets is the Target 11 commitment to conserve 10% of Canada's coastal and marine areas by 2020 - a commitment supported by all three of the major federal parties.

Despite the broad support of federal parties for achieving ocean protection, the federal Liberal government politicized the process of creating marine protected areas (MPAs) when they issued an election promise in 2015 to achieve 5% protection by 2017. Although one-upmanship is not new to any level of politics, this particular campaign promise has proven particularly worrisome for a long list of Canadians including fish and seafood harvesters, First Nations and coastal communities.

The Conservative Party of Canada knows that MPAs are essential to the conservation and health of Canada's oceans; this is why our government signed the Aichi Biodiversity Targets in 2010. However, the Liberal government's sudden acceleration of established processes for creating MPAs between 2016 and 2018 has exposed problematic patterns that threaten the sustainability of the MPAs being created with the new accelerated process.

Throughout its study examining the criteria and process being used to identify and establish MPAs, the Standing Committee on Fisheries and Oceans received testimony clearly delineating the success of MPAs created with broad consensus of affected parties and the unintended consequences and discord created by MPAs created without such consensus.

The government's pursuit of a political promise has resulted in the established process of creating MPAs being weakened and the resulting MPAs being less sustainable as they are more likely to face sustained opposition and legal challenges. Truly sustainable MPAs must be based on consensus and support from stakeholders including local communities, First Nations, harvesters and others who depend on Canada's shared marine resources for subsistence, employment, industry and recreation.

This truth is being borne-out in the experiences of other countries that have rushed to meet targets only to have their supposed accomplishments eventually undermined by science that was not considered or voices that were ignored. Canada must learn from the painful experiences of other nations where MPAs were created without adequate consultation and consensus only to be contested in litigation that exposed the weaknesses of rushed MPAs.

Canada has the largest most geographically diverse coast lines in the world. Applying a one size fits all comparison to what other countries are doing or experiencing with respect to MPA's would prove problematic and ill advised. A rush to expediently designate interim MPA's to

capitalize politically on the international stage does not take into consideration those isolated communities along our coasts, solely dependent upon our waters. The government needs to take a thoughtful and well communicated approach to the establishment of MPAs.

As one team of researchers examining unintended consequences of marine conservation have written, "...the quality of governance processes and the social consequences of some marine conservation initiatives have been the subject of critique and even human rights complaints. These types of governance and social issues may jeopardize the legitimacy of, support for and long-term effectiveness of marine conservation."[1]

By accelerating the process for creating MPAs, the Liberal government has replaced established processes for building consensus with expediency serving a partisan interest. Truly sustainable MPAs require a delicate balance upholding principles of conservation, Indigenous rights, common resource and the interests of all Canadians, both today and in the future.

As the Government of Canada's *Federal Marine Protected Areas Strategy* states, "[t]he concept of consultation and collaboration is essential to the development and implementation of the federal marine protected areas network and its individual components – its success depends on how well various interests are able to work together."[2] By adopting a new rushed approach to creating MPAs, the Liberal government is overstepping underpinning principles of the Government of Canada's own federal MPA strategy.

By rushing the creation of MPAs, the Trudeau government is exposing Canadians and the Government of Canada to unknown potential social, economic and legal costs. For his part, the Minister of Fisheries and Oceans has indeed acknowledged that the new rushed process for creating MPAs will bear consequences, especially for fishermen who depend on access to marine resources in the form of fish stocks for their livelihoods.

During his appearance before the Senate of Canada on November 1, 2016, Minister LeBlanc conceded that the Trudeau government's "...ambitious promise to substantially increase the size of our marine protected areas...will be more difficult in some areas than others, particularly when it comes to the commercial fishery."[3] Minister LeBlanc continued by telling the Senate that during his discussions "...with fishery stakeholders and government representatives, who shared exactly the same concerns as you, I promised to work with them to properly compensate those affected."[4]

Despite this statement by Minister LeBlanc, Conservative members of the Committee are unaware of what formal system has been created to deliver the compensation alluded to by the

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[1] *An appeal for a code of conduct for marine conservation*, Marine Policy, vol. 81 (2017), p. 411-418.
[2] *Canada's Federal Marine Protected Areas Strategy*, 2005, DFO/2005-799.
[3] Min. Dominic LeBlanc, Minister of Fisheries and Oceans, Senate Question Period, 1 November, 2016.
[4] Ibid.

Minister. Such a system of compensation must be clearly defined and communicated to all Canadians and other levels of government affected by the rushed creation of MPAs.

When the Liberals made their 5% by 2017 election promise, they were grasping for political credit for a commitment made by another government and as they grasped, they overturned the established processes for building consensus with Canadians to determine what, where and how MPAs should be. As the old adage goes, it is not what you do; it is how you do it that matters.

There is broad political will for Canada to achieve its coastal and marine conservation commitments and the balanced approach required in achieving these goals; so why is the Liberal government discarding the essential scientific, social and economic assessment processes? In the new rushed process of creating MPAs, the Trudeau government has elevated the prominence of input received from environmental non-governmental organizations (ENGOs). This development is a cause for concern for Conservative Members of the Committee because the increased influence of ENGOs on the Trudeau government's fisheries and oceans policies has eroded that of frontline stakeholders, especially fishermen.

One such prominent ENGO, the West Coast Environmental Law Association, shared with the Committee that their organization receives foreign funding channeled through other organizations such as the Gordon and Betty Moore Foundation and Tides Canada.[5] This revelation is of acute concern as it raises the question of who the Liberal government is actually listening to as it forms policies, laws and regulations that have a direct impact on Canadians from coast to coast to coast.

Supplementary Recommendation:
When establishing new Marine Protected Areas and Areas of Interest or undertaking measures contributing to the achievement of marine protection targets, the Government of Canada must uphold Canada's national interest by giving primary consideration to Canadian interests over foreign or foreign-funded interests.

The government's rush to the Aichi Target 11 finish line is creating uncertainty in our fisheries and tourism sectors, it is pitting regions and Canadians against each other and it is inflicting a black eye on a noble cause that all federal parties support.

Without delay, the Government of Canada must restore Canada's time-proven processes of scientific, social and economic assessments and effective consultations for all Canadians affected by the creation of new MPAs. If the Government of Canada is sincerely committed to providing compensation for Canadians negatively affected by the creation of MPAs, a system for the delivery of such compensation must also be clearly defined, initiated and communicated to all affected Canadians without delay.

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[5] Linda Nowlan, Staff Counsel, West Coast Environmental Law Association, *Evidence*, 2 May 2017.

If something is worth doing, it is worth doing right. Now is the time for the Liberal government to put aside their political pride and do what is right for Canadians, our oceans and MPAs.

Supplementary Opinion of the New Democratic Party

It is the opinion of the New Democratic Party that in order to sustain marine ecosystems and biodiversity, Marine Protected Areas and MPA law should limit human activity. This includes amending the Oceans Act to:

1. Include minimum protection standards in all MPAs that allow for Indigenous governance or co-governance, respect Indigenous rights, and speed up conservation of marine ecosystems. Minimum protection standards must include the following in order to provide adequate protection to all elements of biodiversity in ocean ecosystems in MPAs:
   Prohibitions on:
   - Oil and gas and mineral exploration and development;
   - Wind farms and tidal power development;
   - Open net-pen aquaculture;
   - Bottom trawling;
   - A requirement for significant no-take zones that are closed to all extractive activities.

2. Reflect the federal government's commitments to implementing the United Nations Declaration on the Rights of Indigenous People and working in true government-to-government relationships with Canada's Indigenous Peoples, consistent with the Canadian constitution. Specific legislative amendments should include explicit recognition of Indigenous governance rights and co-governance models, appropriate recognition of Indigenous Protected and Conserved Areas, and options for the delegation of monitoring and enforcement authority to Indigenous guardians.

3. Allow for marine protected area designation over a broad area, or a suite of sites that comprise an MPA network, for enhanced protection following the completion of comprehensive ecosystem-based management plans.